

**Executive Summary – Enforcement Matter – Case No. 38136  
Virginia Franklin Fuller d/b/a Franklin Water System 1  
and d/b/a Franklin Water System 3  
RN102817038 and RN101264372  
Docket No. 2009-1295-PWS-E**

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

Yes

**Locations Where Violations Occurred:**

4701 Idalou Road, Lubbock, Lubbock County (Facility No. 1);

4813 Idalou Road, Lubbock, Lubbock County (Facility No. 3)

**Type of Operation:**

public water systems

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$1,750 (2006-1054-MLM-E)
Past-Due Fees:	\$1,476.24 (915202240); \$1,626.24 (91520080)
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** July 8, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$2,799

**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:** \$2,799

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – N/A

Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

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Docket No. 2009-1295-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** October 27, 2008; May 5, 2009; July 17, 2009; October 20, 2009  
**Date(s) of NOV(s):** December 12, 2008; May 29, 2009  
**Date(s) of NOE(s):** July 29, 2009; April 2, 2010

***Violation Information***

Facility 1:

1. Failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gpm per connection, or provides at least 1,000 gpm and is able to meet the peak hourly demands, whichever is less [30 TEX. ADMIN. CODE § 290.45(f)(1)].
2. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1 and its equipment in a manner so as to minimize the possibility of harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water [30 TEX. ADMIN. CODE § 290.46(m)].
3. Failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520224 for Fiscal years 2005 through 2008 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

Facility 3:

4. Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well [30 TEX. ADMIN. CODE § 290.41(c)(1)(D)].
5. Failed to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii)].
6. Failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii)].
7. Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE Ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u)].
8. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].
9. Failed to maintain all distribution system lines, water storage and pressure maintenance facilities, and all related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)].
10. Failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520080 for Fiscal years 2005 through 2008 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702,].

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***Corrective Actions/Technical Requirements***

**Corrective Actions Completed:**

N/A

**Technical Requirements:**

1. Within 30 days:
  - a. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1, including but not limited to draining the water from the two meter boxes in the alley between Twinberry and Turmeric Avenues;
  - b. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 3, including but not limited to repairing the leak on the discharge pipe of Well No. 2 and draining the flooded area in the alley adjacent to Well No. 2;
  - c. Begin maintaining all distribution lines, water storage and pressure maintenance facilities, and all related appurtenances at Facility No. 3 in a watertight condition, including but not limited to repairing the leak at the connection point to the pressure tank; and
  - d. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account Nos. 91520224 and 91520080.
2. Within 60 days, ensure that livestock in pastures are not allowed within 50 feet of a water supply well at Facility 3.
3. Within 120 days, provide a copy of the purchase water contract for Facility No. 1.
4. Within 180 days:
  - a. Provide a total storage capacity of 200 gallons per connection at Facility No. 3;
  - b. Provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane at Facility No. 3; and
  - c. Plug any and all abandoned public water supply wells with cement; or test the well every five years or as required by the Executive Director to prove that there are in a non-deteriorated condition, including but not limited to, Well Nos. 2, 3 and 5 at Facility No. 3.
5. Submit written certification demonstrating compliance:
  - a. Technical Requirements Nos. 1.a. and 1.b. within 60 days;
  - b. Technical Requirements Nos. 1.c., 1.d. and 2. within 90 days;
  - c. Technical Requirement No. 3 within 135 days; and
  - d. Technical Requirement No. 4 within 195 days.

***Litigation Information***

**Date(s) Petition(s) Filed:** April 7, 2010 (EDPRP); March 31, 2011 (EDFARP)  
**Date(s) Green Card(s) Signed:** April 9, 2010 (EDPRP); April 2, 2011 (EDFARP)  
**Date(s) Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Dates:** N/A

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Docket No. 2009-1295-PWS-E**

***Contact Information***

**TCEQ Attorneys:** Rudy Calderon, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

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

**TCEQ Regional Contact:** Patrick Cooke, Lubbock Regional Office, (806)796-7092

**Respondent:** Virginia Franklin Fuller, 401 North Carroll Avenue, #156, Southlake, Texas 76092

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-Aug-2009			
	<b>PCW</b>	10-Aug-2009	<b>Screening</b>	10-Aug-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 1				
<b>Reg. Ent. Ref. No.</b>	RN102817038				
<b>Facility/Site Region</b>	2-Lubbock	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	38136	<b>No. of Violations</b>	3		
<b>Docket No.</b>	2009-1295-PWS-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$350
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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.

<b>Compliance History</b>	49.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$171
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**Notes**  
Enhancement is due to two Notices of Violation ("NOV") with same or similar violations as those in the current enforcement action, seven dissimilar NOVs, and one default order without a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$142	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2 000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$521
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$521
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$521
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$521
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<b>Screening Date</b> 10-Aug-2009	<b>Docket No.</b> 2009-1295-PWS-E	<b>PCW</b>
<b>Respondent</b> Virginia Franklin Fuller dba Franklin Water System 1	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 38136	<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102817038		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Andrea Linson-Mgbeoduru		

### Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	<b>Adjust.</b>
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	7	14%
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	1	25%
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)** 49%

>> **Repeat Violator (Subtotal 3)**

<span style="border: 1px solid black; padding: 2px;">N/A</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">N/A</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Summary**

<b>Compliance History Notes</b>	Enhancement is due to two Notices of Violation ("NOV") with same or similar violations as those in the current enforcement action, seven dissimilar NOVs, and one default order without a denial of liability.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 49%

**Screening Date** 10-Aug-2009 **Docket No.** 2009-1295-PWS-E **PCW**  
**Respondent** Virginia Franklin Fuller dba Franklin Water System 1 *Policy Revision 2 (September 2002)*  
**Case ID No.** 38136 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102817038  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Andrea Linson-Mgbeoduru

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.45(f)(1)

**Violation Description**

Failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gallons per minute ("gpm") per connection or provide at least 1,000 gpm and able to meet the peak hourly demands, whichever is less. Since the Facility has failed to obtain a purchase water contract, the production and service pump capacities could not be evaluated; therefore the Facility is considered to be 100% deficient.

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> 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

Due to failure to have a purchase water contract, the Facility can not ensure that customers are provided with an adequate supply of water. As a result, customers could be exposed to a significant amount of contaminants that 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 checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One monthly event is recommended, calculated from the record review date, July 17, 2009, to the screening date, August 10, 2009

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(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** Virginia Franklin Fuller dba Franklin Water System 1  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN102817038  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	27-Oct-2008	31-May-2010	1.59	\$119	n/a	\$119

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount necessary to obtain a written water purchase contract. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$1,500	<b>TOTAL</b>	\$119
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<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 1	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	38136	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN102817038			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.46(m)			
<b>Violation Description</b>	Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water. Specifically, at the time of the record review, it was noted that on the May 5, 2009 investigation, the investigator observed that there was standing water in two meter boxes in the alley between Twinberry and Turmeric Avenues.			
<b>Base Penalty</b>				\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	x
				<b>Percent</b> <input type="text" value="5%"/>
<b>&gt;&gt;Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>				
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	If the Facility is not maintained customers of the Facility could be exposed to an insignificant amount of contaminants which would not exceed levels that are protective of human health.			
<b>Adjustment</b>				\$950
				<input type="text" value="\$50"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="2"/>	<input type="text" value="24"/> <b>Number of violation days</b>	
mark only one with an x	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
<b>Violation Base Penalty</b>				\$100
Two single events are recommended, based on one event for each meter box.				
<b>Good Faith Efforts to Comply</b>				
		<b>0.0%</b> Reduction	<input type="text" value="\$0"/>	
		Before NOV    NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>			
Ordinary	<input type="text"/>			
N/A	x	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$100
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
<b>Estimated EB Amount</b>		<input type="text" value="\$23"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$149"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$149

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 1  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN102817038  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$500	5-May-2009	31-Mar-2010	0.90	\$23	n/a	\$23

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount to drain the standing water in the meter boxes in the alley between Twinberry and Turmeric. The date required is the investigation date initially documenting the violation. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$23

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>														
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 1			<i>Policy Revision 2 (September 2002)</i>														
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>														
<b>Reg. Ent. Reference No.</b>	RN102817038																	
<b>Media [Statute]</b>	Public Water Supply																	
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru																	
<b>Violation Number</b>	3																	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code 5.702																	
<b>Violation Description</b>	Failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 91520224 for Fiscal Year 2005 through 2008.																	
		<b>Base Penalty</b>	\$1,000															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																		
<b>OR</b>	<b>Harm</b>																	
	<b>Release</b>	Major	Moderate	Minor														
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>														
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>														
			<b>Percent</b>	<input type="text" value="0%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																		
	<b>Falsification</b>	Major	Moderate	Minor														
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>														
			<b>Percent</b>	<input type="text" value="0%"/>														
<b>Matrix Notes</b>	N/A																	
			<b>Adjustment</b>	<input type="text" value="\$1,000"/>														
				<input type="text" value="\$0"/>														
<b>Violation Events</b>																		
	Number of Violation Events	<input type="text"/>	Number of violation days	<input type="text"/>														
		<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>		
daily	<input type="text"/>																	
weekly	<input type="text"/>																	
monthly	<input type="text"/>																	
quarterly	<input type="text"/>																	
semiannual	<input type="text"/>																	
annual	<input type="text"/>																	
single event	<input type="text"/>																	
<i>mark only one with an x</i>			<b>Violation Base Penalty</b>	<input type="text" value="\$0"/>														
	All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.																	
<b>Good Faith Efforts to Comply</b>																		
		<b>0.0%</b>	Reduction	<input type="text" value="\$0"/>														
		Before NOV	NOV to EDRP/Settlement Offer															
	Extraordinary	<input type="text"/>	<input type="text"/>															
	Ordinary	<input type="text"/>	<input type="text"/>															
	N/A	x	(mark with x)															
	<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																
			<b>Violation Subtotal</b>	<input type="text" value="\$0"/>														
<b>Economic Benefit (EB) for this violation</b>																		
<b>Statutory Limit Test</b>																		
	<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$0"/>														
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$0"/>														

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 1  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN102817038  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-Aug-2009			
	<b>PCW</b>	10-Aug-2009	<b>Screening</b>	10-Aug-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3				
<b>Reg. Ent. Ref. No.</b>	RN101264372				
<b>Facility/Site Region</b>	2-Lubbock	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	38136	<b>No. of Violations</b>	7		
<b>Docket No.</b>	2009-1295-PWS-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Linson-Mgbeodur		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>	\$1,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,550
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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.

<b>Compliance History</b>	47.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$728
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**Notes**  
Enhancement is due to two Notices of Violation ("NOV") with same or similar violations as those in the current enforcement action, six dissimilar NOVs, and one default order without a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$3,151
Approx. Cost of Compliance	\$27,247

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,278
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$2,278

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,278
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,278
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<b>Screening Date</b> 10-Aug-2009	<b>Docket No.</b> 2009-1295-PWS-E	<b>PCW</b>
<b>Respondent</b> Virginia Franklin Fuller dba Franklin Water System 3	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 38136	<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101264372		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Andrea Linson-Mgbeoduru		

### Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	<b>Adjust.</b>
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	6	12%
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	1	25%
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)** 47%

**>> Repeat Violator (Subtotal 3)**

<span style="border: 1px solid black; padding: 2px;">N/A</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">N/A</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	Enhancement is due to two Notices of Violation ("NOV") with same or similar violations as those in the current enforcement action, six dissimilar NOVs, and one default order without a denial of liability.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 47%

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	38136	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101264372			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.41(c)(1)(D)			
<b>Violation Description</b>	Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well. Specifically, at the time of the record review, it was documented that during an investigation on October 27, 2008, the investigator observed that horses were located within 50 feet of Well Nos. 6 and 7 and horse manure was within 10 feet of Well No. 4.			
<b>Base Penalty</b>				\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual			
	Potential		x	
				<b>Percent</b> 5%
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
				<b>Percent</b> 0%
<b>Matrix Notes</b>	Failure to keep livestock at least 50 feet from the well could expose the Facility's source water to an insignificant amount of pollutants which would not exceed levels that are protective of human health.			
<b>Adjustment</b>				\$950
				\$50
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	3	<b>Number of violation days</b>	24
<i>mark only one with an x</i>		daily		
		weekly		
		monthly		
		quarterly		
		semiannual		
		annual		
		single event	x	
				<b>Violation Base Penalty</b> \$150
Three single events are recommended, based on one event per well.				
<b>Good Faith Efforts to Comply</b>				
		<b>0.0%</b>	<b>Reduction</b>	\$0
		Before NOV	NOV to EDRP/Settlement	
Extraordinary				
Ordinary				
N/A	x		mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$150
<b>Economic Benefit (EB) for this violation</b>				
		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$15	<b>Violation Final Penalty Total</b>	\$221	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$221

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	27-Oct-2008	30-Apr-2010	1.51	\$15	n/a	\$15

Notes for DELAYED costs

The delayed costs include the estimated amount to buy and install the electric wire around the fence surrounding the pasture to prevent livestock from roaming within 50 feet of public water supply wells. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

**TOTAL**

\$15

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>	
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3			<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b>	RN101264372				
<b>Media [Statute]</b>	Public Water Supply				
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru				
<b>Violation Number</b>	2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.45(b)(1)(C)(ii)				
<b>Violation Description</b>	Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the record review, it was documented that the 66 service connections require a minimum storage capacity of 13,200 gallons; however, the Facility provided no storage capacity, indicating a 100% deficiency.				
		<b>Base Penalty</b>	\$1,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Release</b>	<b>Harm</b>			
		Major	Moderate	Minor	
	Actual				
	Potential	x			<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">25%</span>
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
					<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
<b>Matrix Notes</b>	Failure to provide a minimum total storage capacity of 200 gallons per connection could result in the Facility's inability to provide a safe and adequate water supply, exposing customers to a significant amount of contaminants which would exceed levels that are protective of human health.				
		<b>Adjustment</b>	\$750		
			\$250		
<b>Violation Events</b>					
	Number of Violation Events	1	Number of violation days	24	
	<i>mark only one with an x</i>	daily			
		weekly			
		monthly	x		
		quarterly			
		semiannual			
		annual			
		single event			
			<b>Violation Base Penalty</b>	\$250	
	One monthly event is recommended, calculated from the date of the record review, July 17, 2009, to the screening date, August 10, 2009.				
<b>Good Faith Efforts to Comply</b>					
		<b>0.0%</b> Reduction		\$0	
		Before NOV	NOV to EDPRP/Settlement Offer		
	Extraordinary				
	Ordinary				
	N/A	x	(mark with x)		
	<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>	\$250		
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
	<b>Estimated EB Amount</b>	\$1,239	<b>Violation Final Penalty Total</b>	\$368	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$368	

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$10,571	27-Oct-2008	30-Jun-2010	1.67	\$59	\$1,180	\$1,239
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 amount necessary to provide a minimum storage capacity of 200 gallons per connection, as well as upgrading the entire Facility. The date required is the date of the investigation initially documenting the violation. The final date is the estimated compliance date.

### 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

\$10,571

**TOTAL**

\$1,239

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>	
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3			<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b>	RN101264372				
<b>Media [Statute]</b>	Public Water Supply				
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru				
<b>Violation Number</b>	3				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.45(b)(1)(C)(iii)				
<b>Violation Description</b>	Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane. Specifically, at the time of the record review, it was documented that the 66 service connections require a minimum capacity of 132 gpm; however, the Facility had no service pumps, indicating a 100% deficiency.				
		<b>Base Penalty</b>	\$1,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Release</b>	<b>Harm</b>			
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
Matrix Notes	Failure to provide a minimum service pump capacity of 2.0 gpm per connection could result in the Facility's inability to provide a safe and adequate water supply, exposing customers to a significant amount of contaminants which would exceed levels that are protective of human health.				
		<b>Adjustment</b>	\$750		
			\$250		
<b>Violation Events</b>					
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="24"/>	Number of violation days	
	<i>mark only one with an x</i>	daily	<input type="text"/>		
		weekly	<input type="text"/>		
		monthly	x		
		quarterly	<input type="text"/>		
		semiannual	<input type="text"/>		
		annual	<input type="text"/>		
	single event	<input type="text"/>			
				<b>Violation Base Penalty</b>	\$250
	One monthly event is recommended, calculated from the date of the record review, July 17, 2009, to the screening date, August 10, 2009.				
<b>Good Faith Efforts to Comply</b>					
		<b>0.0%</b>	Reduction		\$0
		Before NOV	NOV to EDRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	<input type="text"/>	<input type="text"/>		
	N/A	x	(mark with x)		
	Notes	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>			\$250
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
	<b>Estimated EB Amount</b>	<input type="text" value="\$96"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$368"/>	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$368"/>	

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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	\$776	27-Oct-2008	31-Jul-2010	1.76	\$5	\$91	\$96
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 costs include the estimated amount to provide two or more service pumps having a total capacity of 2.0 gpm per connection. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$776	<b>TOTAL</b>	\$96
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<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>	
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3			<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b>	RN101264372				
<b>Media [Statute]</b>	Public Water Supply				
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru				
<b>Violation Number</b>	4				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.46(u)				
<b>Violation Description</b>	Failed to plug an abandoned public water supply well with cement according to 16 Tex. Admin. Code Ch. 76 (relating to Water Well Drillers and Water Well Pump Installers); or test the well every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition. Specifically, at the time of the record review, it was documented that Well Nos. 2, 3, and 5 were not plugged, and had not been tested within the last five years to ensure that they were in a non-deteriorated condition.				
		<b>Base Penalty</b>	\$1,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Release</b>	<b>Harm</b>			
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Failure to plug the abandoned wells could expose consumers to significant amounts of pollutants which would exceed levels that are protective of human health or the environment.				
		<b>Adjustment</b>	\$750		
<b>\$250</b>					
<b>Violation Events</b>					
	Number of Violation Events	<input type="text" value="3"/>	<input type="text" value="24"/>	Number of violation days	
	daily	<input type="text"/>	<input type="text"/>		
	weekly	<input type="text"/>	<input type="text"/>		
	monthly	x	<input type="text"/>		
	quarterly	<input type="text"/>	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input type="text"/>	<input type="text"/>		
<i>mark only one with an x</i>				<b>Violation Base Penalty</b> <input type="text" value="\$750"/>	
	Three monthly events are recommended, one event per well, calculated from the date of the record review, July 17, 2009, to the screening date, August 10, 2009.				
<b>Good Faith Efforts to Comply</b>					
	<b>0.0%</b> Reduction				<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	<input type="text"/>	<input type="text"/>		
	N/A	x	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
		<b>Violation Subtotal</b>	<input type="text" value="\$750"/>		
<b>Economic Benefit (EB) for this violation</b>					
	<b>Estimated EB Amount</b>	<input type="text" value="\$1,758"/>			<b>Statutory Limit Test</b>
		<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,103"/>		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$1,103"/>

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$15,000	27-Oct-2008	30-Jun-2010	1.67	\$84	\$1,674	\$1,758
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed cost includes the amount necessary to plug the abandoned wells or test the wells every five years to show they are in a non-deteriorated condition. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$15,000

**TOTAL**

\$1,758

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101264372			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Failed to initiate maintenance and housekeeping practice's to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the record review, it was documented that during an investigation conducted on October 27, 2008, the investigator observed a large flooded area in the alley adjacent to Well No. 2 as a result of a hose that had been connected directly to the discharge pipe of the well as an attempt to control leaks from the well.

**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="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

**>> 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**

If the Facility's equipment and appurtanances are not maintained, customers of the water system could be exposed to an insignificant amount of contaminants which would not exceed levels that are 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"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

**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"/>	<input type="text" value="(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** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$500	8-May-2009	31-Mar-2010	0.90	\$1	\$30	\$31
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 repair any leaks from the well and to drain the area that was flooded. The date required is the date initially documenting the violation. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$31

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>	
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3			<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.</b>	RN101264372				
<b>Media [Statute]</b>	Public Water Supply				
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru				
<b>Violation Number</b>	6				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.46(m)(4)				
<b>Violation Description</b>	Failed to maintain all distribution system lines, water storage and pressure maintenance facilities, and all related appurtenances in a water tight condition. Specifically, at the time of the record review, it was documented that the pressure tank leaked at the connection point.				
		<b>Base Penalty</b>	\$1,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Release</b>	<b>Harm</b>			
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>
Matrix Notes	Failure to maintain all related appurtenances in a water tight condition could expose customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.				
		<b>Adjustment</b>	\$900		
			\$100		
<b>Violation Events</b>					
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="24"/>	Number of violation days	
	mark only one with an x	daily	<input type="text"/>		
		weekly	<input type="text"/>		
		monthly	<input type="text"/>		
		quarterly	x		<b>Violation Base Penalty</b> <input type="text" value="\$100"/>
		semiannual	<input type="text"/>		
		annual	<input type="text"/>		
		single event	<input type="text"/>		
	One quarterly event is recommended, calculated from the date of the record review, July 17, 2009, to the screening date, August 10, 2009.				
<b>Good Faith Efforts to Comply</b>					
		<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>	
		Before NOV	NOV to EDRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	<input type="text"/>	<input type="text"/>		
	N/A	x	(mark with x)		
	Notes	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>	<input type="text" value="\$100"/>		
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
	Estimated EB Amount	<input type="text" value="\$13"/>	Violation Final Penalty Total	<input type="text" value="\$147"/>	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$147"/>	

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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)	\$200	8-May-2009	31-Mar-2010	0.90	\$1	\$12	\$13
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed costs include the estimated amount to repair or replace the leaking connection to the pressure tank. The date required is the date initially documenting the violation. The final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$200

**TOTAL**

\$13

<b>Screening Date</b>	10-Aug-2009	<b>Docket No.</b>	2009-1295-PWS-E	<b>PCW</b>
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water System 3			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	38136			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101264372			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Andrea Linson-Mgbeoduru			
<b>Violation Number</b>	7			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code 5.702			
<b>Violation Description</b>	Failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Year 2005 through 2008.			
		<b>Base Penalty</b>		\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>		0%
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>		0%
Matrix Notes	N/A			
		<b>Adjustment</b>		\$1,000
				\$0
<b>Violation Events</b>				
	<input type="text"/>	<input type="text"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		<b>Violation Base Penalty</b>		\$0
All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.				
<b>Good Faith Efforts to Comply</b>				
	<b>0.0%</b>	Reduction		\$0
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
		<b>Violation Subtotal</b>		\$0
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
	<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>	\$0
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
				\$0

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water System 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 7

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601450232 FULLER, VIRGINIA FRANKLIN Classification: \_\_\_\_\_ Rating: \_\_\_\_\_  
 Regulated Entity: RN102817038 FRANKLIN WATER SYSTEM 1 Classification: \_\_\_\_\_ Site Rating: \_\_\_\_\_  
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520224  
WATER LICENSING LICENSE 1520224  
 Location: 4701 IDALOU RD, LUBBOCK, LUBBOCK COUNTY, TX  
 TCEQ Region: REGION 02 - LUBBOCK  
 Date Compliance History Prepared: August 10, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: August 03, 2004 to August 03, 2009

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? | Yes   |
| 3. If Yes, who is the current owner/operator?  | Virginia Fuller   |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ?   | OWNOPR, The Franklin Partnership<br>OWN, Kelso Water System<br>The Franklin Partnership |
| 5. When did the change(s) in owner or operator occur?  | 03/30/2005  |

### Components (Multimedia) for the Site:

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

**Effective Date: 08/20/2006** **ADMINORDER 2005-1054-MLM-E**

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect and submit routine monitoring samples and failing to notify the public of the noncompliance during the months of May, June and November 2003 and May, November and December 2004 and January 2005.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit repeat samples following a total coliform-positive sample result and failing to notify the public of the noncompliance during the months of August and September 2004.

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit the required distribution samples following a total coliform-positive sample result and failing to notify the public of the noncompliance during the months of September and October 2004.

Classification: Moderate  
 Citation: 2A TWC Chapter 5, SubChapter A 5.702  
 30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: Failure to pay the required Public Health Services fees for Financial Administration Account no. 9150224

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 | 10/01/2004 | (375281) |
| 2 | 11/01/2004 | (375592) |
| 3 | 12/08/2004 | (375595) |
| 4 | 12/28/2004 | (375607) |
| 5 | 01/28/2005 | (375610) |
| 6 | 03/03/2005 | (375615) |
| 7 | 04/15/2005 | (376845) |
| 8 | 05/03/2005 | (379142) |
| 9 | 03/29/2006 | (460468) |

- 10 09/11/2007 (573857)
- 11 08/01/2008 (682627)
- 12 12/11/2008 (709802)
- 13 07/27/2009 (762753)

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

**Date: 10/01/2004 (375281) CN601450232**  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: FAILURE TO COLLECT ANY OF THE REPEATS IN 08/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY OF THE REPEATS IN 08/2004 FOLLOWING A COLIFORM FOUND MONTH.

**Date: 11/01/2004 (375592) CN601450232**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit repeat samples following a total coliform-positive sample result and failing to notify the public of the noncompliance during the months of August and September 2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY OF THE REPEATS IN 09/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit the required distribution samples following a total coliform-positive sample result and failing to notify the public of the noncompliance during the months of September and October 2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ALL OF THE DISTRIBUTION SAMPLES IN 09/2004 FOLLOWING A COLIFORM FOUND MONTH.

**Date: 12/08/2004 (375595) CN601450232**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: FAILURE TO COLLECT ANY OF THE 5 DISTRIBUTION SAMPLES IN 10/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY OF THE DISTRIBUTION SAMPLES IN 10/2004 FOLLOWING A COLIFORM FOUND MONTH.

**Date: 12/28/2004 (375607) CN601450232**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 11/2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 11/2004.

**Date: 01/28/2005 (375610) CN601450232**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 12/2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 12/2004.

**Date: 03/03/2005 (375615) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 01/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 01/2005.

**Date: 04/28/2005 (379142) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)  
 Description: Facility failed to employ a certified operator.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)  
 30 TAC Chapter 290, SubChapter F 290.121  
 Description: Facility failed to have a sample siting plan as required.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
 Description: Facility failed to maintain a distribution map.

**Date: 12/12/2008 (709802) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)  
 Description: Failure to provide a copy of the water purchase contract.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)(1)  
 30 TAC Chapter 290, SubChapter D 290.46(j)(1)(A)  
 30 TAC Chapter 290, SubChapter D 290.46(j)(1)(B)  
 Description: Failure to have Customer Service Inspections (CSIs) conducted by properly licensed individuals.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 Description: Failure to complete and implement a Monitoring Plan.

**Date: 05/29/2009 (742300) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)  
 Description: Failure to provide a copy of the water purchase contract.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to provide maintenance.

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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# Compliance History Report

Customer/Respondent/Owner-Operator: CN601450232 FULLER, VIRGINIA FRANKLIN Classification: \_\_\_\_\_ Rating: \_\_\_\_\_

Regulated Entity: RN101264372 FRANKLIN WATER SYSTEM 3 Classification: \_\_\_\_\_ Site Rating: \_\_\_\_\_

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520080  
WATER LICENSING LICENSE 1520080

Location: 4813 IDALOU ROAD, LUBBOCK COUNTY, TX

TCEQ Region: REGION 02 – LUBBOCK

Date Compliance History Prepared: August 10, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 03, 2004 to August 03, 2009

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? | Yes              |
| 3. If Yes, who is the current owner/operator?  | Virginia Fuller  |
| 4. If Yes, who was/were the prior owner(s)/operator(s)?  | OWNER, Jim Kelso |
| 5. When did the change(s) in owner or operator occur?  | 11/12/2007       |

**Components (Multimedia) for the Site:**

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

**Effective Date: 08/20/2006**

**ADMINORDER 2005-1054-MLM-E**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect and submit routine monitoring samples and failing to notify the public of the noncompliance during the months of May, June, September and November 2003, and May, November, and December 2004, and January 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit repeat samples following a total coliform-positive sample result and failing to notify the public of the noncompliance during the months of August and September 2004

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit the required distribution samples following a total coliform-positive sample result and failure to notify the public of the noncompliance during the months of September and October 2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(b)  
 5A THC Chapter 341, SubChapter A 341.031(a)

Description: Exceeded the 10mg/L Maximum Contaminant Level for nitrates during December 2004.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(2)

Description: Failure to provide at least 0.2mg/L of chlorine residual throughout Facility 3's distribution system.

Classification: Moderate

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

Description: Failure to complete customer service inspection certificates prior to providing continuous water service to any existing service when the water purveyor has reason to believe unacceptable practices exist.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)  
 5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failure to employ a certified water works operator to operate Facility 3.

Classification: Major

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

Description: Failure to issue a boil water notification within 24 hours of discovering no chlorine residual in the water supply on or about April 18, 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)  
 5A THC Chapter 341, SubChapter A 341.036

Description: Failure to provide well #3 with casing that was 18" above ground level.

Classification: Minor

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

Description: Failure to securely install all water system electrical wiring in compliance with a local or national electric code on well numbers 2, 3, 4, 6, and 7.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide locked gates on all wells.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to design and provide a sampling plan for Facility 3.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to provide a distribution map of the water system.

Classification: Moderate

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

Description: Failure to provide legible signs at the wells and pressure tanks.

Classification: Moderate

Citation: 30 TAC Chapter 288, SubChapter B 288.20

Description: Failure to provide a Drought Contingency Plan for the water system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)

Description: Failure to provide accurate pressure gauges on all the pressure tanks at Facility 3

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(7)

Description: Failure to repair leaks on the pressure tanks at well #2 and well #7.

Classification: Moderate

Citation: 2A TWC Chapter 5, SubChapter A 5.702

30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: Failure to pay the required Public Health Service fees for Financial Administration Account No. 91520080

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 09/28/2004 (375703)
- 2 11/01/2004 (375718)
- 3 12/08/2004 (375735)
- 4 12/28/2004 (375742)
- 5 01/28/2005 (375755)
- 6 03/03/2005 (375763)
- 7 04/20/2005 (377683)
- 8 05/26/2005 (380390)
- 9 10/07/2005 (376074)
- 10 06/16/2006 (481561)
- 11 12/11/2008 (709801)
- 12 05/29/2009 (747369)
- 13 07/27/2009 (762762)

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

**Date: 09/28/2004 (375703) CN601450232**

Self Report? NO Classification: Moderate

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

Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY OF THE REPEATS IN 08/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to collect and submit repeat samples following a total coliform-positive sample result and failing to notify the public of the noncompliance during the months of August and September 2004

**Date: 11/01/2004 (375718) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
 Description: FAILURE TO COLLECT ANY OF THE REPEATS IN 09/2004 FOLLOWING A COLIFORM FOUND RESULT.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY OF THE REPEATS IN 09/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: Failure to collect and submit the required distribution samples following a total coliform-positive sample result and failure to notify the public of the noncompliance during the months of September and October 2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ALL OF THE DISTRIBUTION SAMPLES IN 09/2004 FOLLOWING A COLIFORM FOUND MONTH.

**Date: 12/08/2004 (375735) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: FAILURE TO COLLECT ANY OF THE 5 DISTRIBUTION SAMPLES IN 10/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING ANY OF THE 5 DISTRIBUTION SAMPLES IN 10/2004 FOLLOWING A COLIFORM FOUND MONTH.

**Date: 12/28/2004 (375742) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 11/2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 11/2004.

**Date: 01/28/2005 (375755) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 12/2004.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 12/2004.

**Date: 03/03/2005 (375763) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 01/2005.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 01/2005.

**Date: 12/12/2008 (709801) CN601450232**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)  
 Description: Failure to prevent livestock in pastures from being allowed within 50' of a water supply well.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)  
 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)  
 Description: Failure to meet the minimum required capacities.

Self Report? NO Classification: Moderate

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

Description: Failure to have Customer Service Inspections (CSIs) conducted by properly licensed individuals.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)

Description: Failure to test wells that are not in use.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to complete and implement a Monitoring Plan.  
**Date: 05/29/2009 (747369) CN601450232**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)

Description: Failure to prevent livestock in pastures from being allowed within 50' of a water supply well.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)  
 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)

Description: Failure to meet the minimum required capacities.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)

Description: Failure to test wells that are not in use.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to provide maintenance.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain the minimum free chlorine residual of 0.2 mg/L.

F. Environmental audits.  
 N/A

G. Type of environmental management systems (EMSs).  
 N/A

H. Voluntary on-site compliance assessment dates.  
 N/A

I. Participation in a voluntary pollution reduction program.  
 N/A

J. Early compliance.  
 N/A

Sites Outside of Texas  
 N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>VIRGINIA FRANKLIN FULLER</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>d/b/a FRANKLIN WATER</b>	<b>§</b>	
<b>SYSTEM 1 AND d/b/a</b>	<b>§</b>	
<b>FRANKLIN WATER SYSTEM 3;</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>
<b>RN102817038 AND RN101264372</b>	<b>§</b>	

**DEFAULT ORDER**

**DOCKET NO. 2009-1295-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 5 and TEX. HEALTH & SAFETY CODE ch. 341, 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 Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3 ("Respondent").

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

**FINDINGS OF FACT**

1. Respondent owns and operates two public water systems at the following locations (collectively referred to as the "Facilities"):
  - a. 4701 Idalou Road, Lubbock, Lubbock County, Texas ("Facility No. 1"); and
  - b. 4813 Idalou Road, Lubbock, Lubbock County, Texas ("Facility No. 3").
2. Facility No. 1 provides purchased treated water for human consumption, has approximately 54 service connections, and serves at least 25 people per day for at least 60 days per year. As such, Facility No. 1 is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. Facility No. 3 provides water for human consumption, has approximately 66 service connections, and serves at least 25 people per day for at least 60 days per year. As such, Facility No. 3 is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
4. During an investigation of Facility No. 1 conducted on October 27, 2008, and a record review conducted on July 17, 2009, a TCEQ Lubbock Regional Office investigator documented that Respondent failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gallons per minute ("gpm") per connection, or provides at least 1,000 gpm and is able to meet the peak hourly demands, whichever is less.

Specifically, no purchase water contract was available, thus, the production and service pump capacities could not be evaluated, therefore, Facility No. 1 is presumed to be 100% deficient.

5. During an investigation of Facility No. 1 conducted on May 5, 2009, and a record review conducted on July 17, 2009, a TCEQ Lubbock Regional Office investigator documented that Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1 and its equipment in a manner so as to minimize the possibility of harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water. Specifically, the investigator observed standing water in two meter boxes in the alley between Twinberry and Turmeric Avenues.
6. During a record review of Facility No. 1 conducted on October 20, 2009, a TCEQ Central Office investigator documented that Respondent failed to pay all annual and late Public Health Services ("PHS") fees for TCEQ Financial Administration Account No. 91520224 for Fiscal Years 2005 through 2008.
7. During an investigation of Facility No. 3 conducted on October 27, 2008, and a record review conducted on July 17, 2009, a TCEQ Lubbock Regional Office investigator documented that Respondent:
  - a. Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well. Specifically, the investigator observed that horses were in a pasture located within 50 feet of Well Nos. 6 and 7, and that horse manure was within 10 feet of Well No. 4;
  - b. Failed to provide a total storage capacity of 200 gallons per connection. Specifically, 66 service connections require a minimum storage capacity of 13,200 gallons, however, Facility No. 3 provided no storage capacity, indicating a 100% deficiency;
  - c. Failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane. Specifically, 66 service connections require a minimum capacity of 132 gpm, however, Facility No. 3 had no service pumps, indicating a 100% deficiency;
  - d. Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non-deteriorated condition. Specifically, Well Nos. 2, 3, and 5 were not plugged and had not been tested within the last five years to ensure that they were in a non-deteriorated condition;
  - e. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 3 and its equipment. Specifically, the investigator observed a large flooded area in the alley adjacent to Well No. 2 as a result of a hose that had been connected directly to the discharge pipe of the well as an attempt to control leaks from the well; and

- f. Failed to maintain all distribution system lines, water storage and pressure maintenance facilities, and all related appurtenances in a watertight condition. Specifically, the pressure tank leaked at the connection point.
8. During a record review of Facility No. 3 conducted on October 20, 2009, a TCEQ Central Office investigator documented that Respondent failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Years 2005 through 2008.
9. Respondent received notice of the violations in Findings of Fact Nos. 4, 5, and 7 on or about August 1, 2009. Respondent received notice of the violations in Findings of Fact Nos. 6 and 8 on or about April 7, 2010.
10. 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 Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3" (the "EDPRP") in the TCEQ Chief Clerk's office on April 7, 2010.
11. By letter dated April 7, 2010, sent 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 April 9, 2010, as evidenced by the signature on the card.
12. The Executive Director filed the "Executive Director's First Amended 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 Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3" (the "EDFARP") in the TCEQ Chief Clerk's office on March 31, 2011.
13. By letter dated March 31, 2011, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on April 2, 2011, as evidenced by the signature on the card.
14. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1, 2, and 3, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 4, Respondent failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gpm per connection, or provides at least

- 1,000 gpm and is able to meet the peak hourly demands, whichever is less, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(1).
3. As evidenced by Finding of Fact No. 5, Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1 and its equipment in a manner so as to minimize the possibility of harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
  4. As evidenced by Finding of Fact No. 6, Respondent failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520224 for Fiscal Years 2005 through 2008, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
  5. As evidenced by Finding of Fact No. 7.a., Respondent failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(D).
  6. As evidenced by Finding of Fact No. 7.b., Respondent failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii).
  7. As evidenced by Finding of Fact No. 7.c., Respondent failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii).
  8. As evidenced by Finding of Fact No. 7.d., Respondent failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u).
  9. As evidenced by Finding of Fact No. 7.e., Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 3 and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
  10. As evidenced by Finding of Fact No. 7.f., Respondent failed to maintain all distribution system lines, water storage and pressure maintenance facilities, and all related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4).
  11. As evidenced by Finding of Fact No. 8, Respondent failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Years 2005 through 2008, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
  12. As evidenced by Findings of Fact Nos. 10 and 11, 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).

13. As evidenced by Findings of Fact Nos. 12 and 13, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
14. As evidenced by Findings of Fact No. 14, 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.
15. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
16. An administrative penalty in the amount of two thousand seven hundred ninety-nine dollars (\$2,799.00) 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.
17. 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 two thousand seven hundred ninety-nine dollars (\$2,799.00) for violations of state statutes and the 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: Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3; Docket No. 2009-1295-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

3. Respondent shall undertake the following technical requirements at Facility No. 1:
  - a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1, including but not limited to draining the water from the two meter boxes in the alley between Twinberry and Turmeric Avenues, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 3); and
    - ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91520224. The payment shall be sent with the notation "RE: Virginia Franklin Fuller d/b/a Franklin Water System 1, Financial Administration Account No. 91520224" (Conclusion of Law No. 4) 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
  - b. Within 60 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 5., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a.i. and 3.a.ii.
  - c. Within 120 days after the effective date of this Order, Respondent shall provide a copy of the purchase water contract for Facility No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 2).
  - d. Within 135 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 5., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.
4. Respondent shall undertake the following technical requirements at Facility No. 3:
  - a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 3, including but not limited to repairing the leak on the discharge pipe of Well No. 2 and draining the flooded area in the alley adjacent to Well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 9);
    - ii. Begin maintaining all distribution lines, water storage and pressure maintenance facilities, and all related appurtenances in a watertight condition, including but not limited to repairing the leak at the connection point to the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 10); and

- iii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91520080. The payment shall be sent with the notation "RE: Virginia Franklin Fuller d/b/a Franklin Water System 3, Financial Administration Account No. 91520080" (Conclusion of Law No. 11) 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

- b. Within 60 days after the effective date of this Order, Respondent shall ensure that livestock in pastures are not allowed within 50 feet of a water supply well, in accordance with 30 TEX. ADMIN. CODE § 290.41 (Conclusion of Law No. 5).
  - c. Within 90 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 5., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 4.a.i. through 4.b.
  - d. Within 180 days after the effective date of this Order, Respondent shall:
    - i. Provide a total storage capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 6);
    - ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 7); and
    - iii. Plug any and all abandoned public water supply wells with cement according to 16 TEX. ADMIN. CODE ch. 76, or test the wells every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition, including but not limited to, Well Nos. 2, 3 and 5 at Facility No. 3, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 8).
  - e. Within 195 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 5., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 4.d.i. through 4.d.iii.
5. The certifications required by Ordering Provisions Nos. 3.b., 3.d., 4.c., and 4.e. shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Patrick Cooke, Water Section Manager  
Lubbock Regional Office  
Texas Commission on Environmental Quality  
5012 50th Street, Suite 100  
Lubbock, Texas 79414-3421

6. All relief not expressly granted in this Order is denied.
7. 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 Facilities' operations referenced in this Order.
8. 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.
9. 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.
10. 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.
11. 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

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For the Commission

**AFFIDAVIT OF RUDY CALDERON**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

"My name is Rudy Calderon. 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 Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3" (the "EDPRP") was filed with the Office of the Chief Clerk on April 7, 2010.

The EDPRP was mailed to Respondent at her last known address on April 7, 2010, 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 April 9, 2010, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 Virginia Franklin Fuller d/b/a Franklin Water System 1 and d/b/a Franklin Water System 3" (the "EDFARP") was filed with the Office of the Chief Clerk on March 31, 2011.

The EDFARP was mailed to Respondent at her last known address on March 31, 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 EDFARP on April 2, 2011, as evidenced by the signature on the card.

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



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Rudy Calderon, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 15<sup>th</sup> day of June, A.D., 2011.

*Cheryl Arredondo*

Notary Signature

