

Lake Hills DTP II, LLC
RN106081326
Docket No. 2012-0517-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

9258 Farm-to-Market 1283, Lakehills, Bandera County

Type of Operation:

public water supply

Other Significant Matters:

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

Texas Register Publication Date:	September 28, 2012
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$2,572
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Total Paid to General Revenue:	\$2,572
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Total Due to General Revenue:	N/A
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SEP Conditional Offset:	N/A
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Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source:	No
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Statutory Limit Adjustment:	None
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Applicable Penalty Policy:	September 2002 (PCW 1) September 2011 (PCW 2)
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Lake Hills DTP II, LLC
RN106081326
Docket No. 2012-0517-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: February 6, 2012
Date(s) of NOV(s): See Compliance History – 5 related NOVs
Date(s) of NOE(s): February 10, 2012

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis for the months of April 2011 through August 2011, and failed to provide public notification of the failure to collect routine samples for the months of June 2011 through August 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].
2. Failed to collect routine distribution water samples for coliform analysis for the months of September 2011 through December 2011, and failed to provide public notification of the failure to collect routine samples for the month of September 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 10 days:
 - a. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility; and
 - b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
2. Submit written certification to demonstrate compliance:
 - a. Within 25 days for Technical Requirement No. 1.a.; and
 - b. Within 195 days for Technical Requirement No. 1.b.

Litigation Information

Date Petition(s) Filed: July 9, 2012
Date Answer(s) Filed: N/A
Settlement Date: August 29, 2012

Contact Information

TCEQ Attorneys: Steven M. Fishburn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
James Murphy, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, (512) 239-2576

TCEQ Regional Contact: Lynn Bumguardner, Central Regional Office, (210) 403-4050

Respondent: Geren Moor, Vice-President, Lake Hills DTP II, LLC, 5956 Sherry Lane, Ste. 850, Richardson, Texas 75225

Respondent's Attorney: Evan Gower, c/o GBT Realty Corp., 9010 Overlook Blvd., Brentwood, Tennessee 37027



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Feb-2012			
	PCW	12-Mar-2012	Screening	29-Feb-2012	EPA Due 31-Mar-2012

RESPONDENT/FACILITY INFORMATION

Respondent	Lake Hills DTP II, LLC	
Reg. Ent. Ref. No.	RN106081326	
Facility/Site Region	13-San Antonio	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	43704	No. of Violations	1
Docket No.	2012-0517-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Wright
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0%	Enhancement	Subtotals 2, 3, & 7	\$312
Notes	Enhancement for five NOV's with same/similar violations.			
Culpability	No	0.0%	Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$152	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$240			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,562**

OTHER FACTORS AS JUSTICE MAY REQUIRE **9.5%** **Adjustment** **\$149**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided costs of compliance.		
		Final Penalty Amount	\$1,711

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,711**

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

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

Notes	No deferral is recommended for Findings Orders.		
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PAYABLE PENALTY **\$1,711**

Screening Date 29-Feb-2012

Docket No. 2012-0517-PWS-E

PCW

Respondent Lake Hills DTP II, LLC

Policy Revision 2 (September 2002)

Case ID No. 43704

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106081326

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Wright

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date	29-Feb-2012	Docket No.	2012-0517-PWS-E	PCW
Respondent	Lake Hills DTP II, LLC			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43704			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN106081326			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Wright			

Violation Number

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of April 2011 through August 2011, and failed to provide public notification of the failure to collect routine samples for the months of June 2011 through August 2011.

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes Failure to collect water samples for coliform analysis could result in the persons served by the Facility being exposed to significant amounts of undetected contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Five monthly events are recommended.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Lake Hills DTP II, LLC
Case ID No. 43704
Reg. Ent. Reference No. RN106081326
Media Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	6-Feb-2012	30-Sep-2012	0.65	\$3	n/a	\$3

Notes for DELAYED costs The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the date of the record review. The final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Apr-2011	31-Aug-2011	1.33	\$8	\$125	\$133
Other (as needed)	\$15	1-Jul-2011	30-Nov-2011	1.33	\$1	\$15	\$16

Notes for AVOIDED costs The avoided costs include the estimated amount to collect a total of five monthly routine water samples for coliform analysis (\$25 per sample) and provide public notice for the failure to sample (\$5 per notice), calculated for the months in which no samples were collected and during the period public notification was required.

Approx. Cost of Compliance \$240

TOTAL \$152



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	27-Feb-2012			
	PCW	12-Mar-2012	Screening	29-Feb-2012	EPA Due
					31-Mar-2012

RESPONDENT/FACILITY INFORMATION

Respondent	Lake Hills DTP II, LLC		
Reg. Ent. Ref. No.	RN106081326		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43704	No. of Violations	1
Docket No.	2012-0517-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Wright
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date	29-Feb-2012	Docket No.	2012-0517-PWS-E	PCW
Respondent	Lake Hills DTP II, LLC			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43704			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106081326			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Wright			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

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

N/A **Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A **Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for five NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 25%

Screening Date	29-Feb-2012	Docket No.	2012-0517-PWS-E	PCW
Respondent	Lake Hills DTP II, LLC			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43704			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106081326			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Wright			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="15.0%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

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 Lake Hills DTP II, LLC
Case ID No. 43704
Reg. Ent. Reference No. RN106081326
Media Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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 associated with this violation is captured in the economic benefit of Violation No. 1 of the Revision 2 PCW.

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]	\$100	1-Sep-2011	31-Dec-2011	1.25	\$6	\$100	\$106
Other (as needed)	\$5	1-Oct-2011	31-Dec-2011	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided costs include the estimated cost to collect a total of four monthly routine water samples for coliform analysis (\$25 per sample) and provide public notice for the failure to sample (\$5 per notice), calculated for the months in which no samples were collected and during the period public notification was required.

Approx. Cost of Compliance

\$105

TOTAL

\$111

Compliance History

Customer/Respondent/Owner Operator: CN603809179 Lake Hills DTP II, LLC Classification: Rating:
Regulated Entity: RN106081326 DOLLAR GENERAL Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0100101
Location: 9258 FARM TO MARKET ROAD 1283, LAKEHILLS, BANDERA COUNTY, TEXAS
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: February 28, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 28, 2007 to February 28, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Abigail Wright Phone: (512) 239-2576

Site Compliance History Components

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 02/08/2012 (984019)
 - 2 02/09/2012 (984127)
 - 3 02/09/2012 (984137)
 - 4 02/09/2012 (987132)
 - 5 02/17/2012 (987277)

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

Date: 10/07/2011 (984127) CN603809179
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/08/2011 (984019) CN603809179
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JUN/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2011.

Date: 11/17/2011 (984137) CN603809179
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/28/2011 (987132) CN603809179
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JUL/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2011.

Date: 01/25/2012 (984127) CN603809179
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: AUG/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2011.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LAKE HILLS DTP II, LLC;
RN106081326**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0517-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Lake Hills DTP II, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Evan Gower, Attorney at Law, presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 9258 Farm-to-Market 1283 in Lakehills, Bandera County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on February 6, 2012, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of April 2011 through August 2011 and failed to provide public notification of the failure to collect routine samples for the months of June 2011 through August 2011; and
 - b. Failed to collect routine distribution water samples for coliform analysis for the months of September 2011 through December 2011, and failed to provide public notification of the failure to collect routine samples for the month of September 2011.

3. Respondent received notice of the violations on or about February 15, 2012.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis for the months of April 2011 through August 2011 and failed to provide public notification of the failure to collect routine samples for the months of June 2011 through August 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
3. As evidenced by Finding of Fact No.2.b., Respondent failed to collect routine distribution water samples for coliform analysis for the months of September 2011 through December 2011 and failed to provide public notification of the failure to collect routine samples for the month of September 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
4. 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.
5. An administrative penalty in the amount of two thousand five hundred seventy-two dollars (\$2,572.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid two thousand five hundred seventy-two dollars (\$2,572.00) of the administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, Respondent shall:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.

- b. Within 25 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.d., below, to demonstrate compliance with Ordering Provision No. 2.a.i.
- c. Within 195 days after the effective date of this Agreed, Respondent shall submit written certification in accordance with Ordering Provision No. 2.d., below, to demonstrate compliance with Ordering Provision No. 2.a.ii.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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

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

with a copy to:

Elston Johnson, Public Drinking Water Program, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director.
6. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

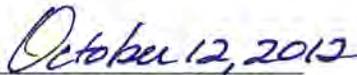
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



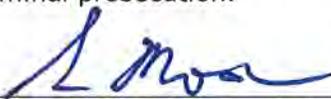
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Lake Hills DTP II, LLC d/b/a Dollar General, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General=s office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General=s Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature—Geren Moor, Vice-President
Lake Hills DTP II, LLC



Date