

Executive Summary – Enforcement Matter – Case No. 42367
CHARLIE BROWN'S LEARNING CENTER
RN102678430
Docket No. 2011-1509-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

CHARLIE BROWN'S LEARNING CENTER, 8010 East County Road 6100, Lubbock County

Type of Operation:

Day care center with a public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 30, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,590

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$140

Total Due to General Revenue: \$3,450

Payment Plan: 30 payments of \$115 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$99

Applicable Penalty Policy: September 2002

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CHARLIE BROWN'S LEARNING CENTER
RN102678430
Docket No. 2011-1509-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 15, 2011

Date(s) of NOE(s): August 20, 2011

Violation Information

1. Failed to submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
3. Failed to collect raw groundwater source *Escherichia coli* samples from all sources within 24 hours of being notified of the distribution total coliform-positive result [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].
4. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director (“ED”) recognizes that by October 3, 2011, the Respondent submitted DLQORs for the third quarter of 2010 through the first quarter of 2011.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine and repeat coliform distribution samples, triggered source monitoring samples when required and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting.
- b. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs.
- c. Within 45 days, submit written certification as described in Ordering Provision e., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b.

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d. Within 90 days, begin submitting DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.

e. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Katy Schumann, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2602; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Charlie Brown, Owner, CHARLIE BROWN'S LEARNING CENTER,
8006 East County Road 6100, Idalou, Texas 79329
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Aug-2011	Screening	25-Aug-2011	EPA Due	30-Sep-2011
	PCW	10-Oct-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	CHARLIE BROWN'S LEARNING CENTER
Reg. Ent. Ref. No.	RN102678430
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	4
Enf./Case ID No.	42367	Order Type	Findings
Docket No.	2011-1509-PWS-E	Government/Non-Profit	Yes
Media Program(s)	Public Water Supply	Enf. Coordinator	Katy Schumann
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,030**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **72.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,461**

Notes: Enhancement for nine NOVs with same/similar violations, one NOV with dissimilar violations and one order without a denial of liability.

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	\$297
Approx. Cost of Compliance	\$488

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$3,491**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$3,491**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,590**

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$3,590**

Screening Date 25-Aug-2011

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PCW

Respondent CHARLIE BROWN'S LEARNING CENTER

Policy Revision 2 (September 2002)

Case ID No. 42367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102678430

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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>)	9	45%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 72%

>> **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 nine NOVs with same/similar violations, one NOV with dissimilar violations and one order without a denial of liability.

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

Screening Date 25-Aug-2011

Docket No. 2011-1509-PWS-E

PCW

Respondent CHARLIE BROWN'S LEARNING CENTER

Policy Revision 2 (September 2002)

Case ID No. 42367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102678430

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description Failed to timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, at the time of the record review, it was documented that the Respondent did not timely submit DLQORs for the third quarter of 2010 through the first quarter of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 3 182 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$30

Three single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$30

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$52

This violation Final Assessed Penalty (adjusted for limits) \$150

Economic Benefit Worksheet

Respondent CHARLIE BROWN'S LEARNING CENTER
Case ID No. 42367
Req. Ent. Reference No. RN102678430
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	\$45	15-Aug-2011	10-Jan-2012	0.41	\$1	n/a	\$1
Training/Sampling	\$100	15-Aug-2011	10-Jan-2012	0.41	\$2	n/a	\$2
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$68	10-Oct-2010	3-Oct-2011	0.98	\$3	n/a	\$3

Notes for DELAYED costs

The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs. Date required is the record review date and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to submit DLQORs (\$22.50 per report). Date required is the date the first report was due and the final date is the date the last reports were submitted.

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

\$213

TOTAL

\$6

Screening Date 25-Aug-2011

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PCW

Respondent CHARLIE BROWN'S LEARNING CENTER

Policy Revision 2 (September 2002)

Case ID No. 42367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102678430

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 2

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

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of February 2010, August 2010, September 2010, November 2010, February 2011 and April 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to 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 \$750

\$250

Violation Events

Number of Violation Events 6

177 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,500

Six monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$166

Violation Final Penalty Total \$2,580

This violation Final Assessed Penalty (adjusted for limits) \$2,580

Economic Benefit Worksheet

Respondent CHARLIE BROWN'S LEARNING CENTER
Case ID No. 42367
Req. Ent. Reference No. RN102678430
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	28-Feb-2010	30-Apr-2011	2.08	\$16	\$150	\$166
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect a total of six routine water samples (\$25 per sample), calculated for the months in which no samples were collected.

Approx. Cost of Compliance \$150

TOTAL \$166

Screening Date 25-Aug-2011

Docket No. 2011-1509-PWS-E

PCW

Respondent CHARLIE BROWN'S LEARNING CENTER

Policy Revision 2 (September 2002)

Case ID No. 42367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102678430

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description Failed to collect raw groundwater source Escherichia coli samples from all sources within 24 hours of being notified of a distribution total coliform-positive result during the month of June 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%). Matrix Notes: Failure to perform triggered source monitoring could result in persons served by the Facility being exposed to significant amounts of undetected contaminants...

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 30 Number of violation days

Table for frequency: daily, weekly, monthly (x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (x), (mark with x).

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$430

This violation Final Assessed Penalty (adjusted for limits) \$430

Economic Benefit Worksheet

Respondent CHARLIE BROWN'S LEARNING CENTER
Case ID No. 42367
Req. Ent. Reference No. RN102678430
Media Violation No. Public Water Supply
 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]	\$25	22-Jun-2011	23-Jun-2011	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect raw groundwater source samples for each active groundwater well (\$25 per sample) calculated for the 24-hour period following the coliform-positive result.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Screening Date 25-Aug-2011

Docket No. 2011-1509-PWS-E

PCW

Respondent CHARLIE BROWN'S LEARNING CENTER

Policy Revision 2 (September 2002)

Case ID No. 42367

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102678430

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine distribution coliform sample collected during the month of June 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to collect repeat samples could expose consumers to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$430

This violation Final Assessed Penalty (adjusted for limits) \$430

Economic Benefit Worksheet

Respondent CHARLIE BROWN'S LEARNING CENTER
Case ID No. 42367
Req. Ent. Reference No. RN102678430
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				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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	22-Jun-2011	23-Jun-2011	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect a total of four repeat water samples (\$25 per sample) calculated for the month in which no repeat samples were collected.

Approx. Cost of Compliance \$100

TOTAL \$100

Compliance History

Customer/Respondent/Owner-Operator: CN603828203 CHARLIE BROWN'S LEARNING CENTER Classification: Rating:
Regulated Entity: RN102678430 CHARLIE BROWN'S LEARNING CENTER Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520154
Location: 8010 EAST COUNTY ROAD 6100, LUBBOCK COUNTY, TEXAS
TCEQ Region: REGION 02 - LUBBOCK
Date Compliance History Prepared: August 25, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 25, 2006 to August 25, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Katy Schumann Phone: (512) 239-2602

Site Compliance History Components

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

Components (Multimedia) for the Site:

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

Effective Date: 02/05/2007

ADMINORDER 2004-1307-PWS-E

Classification: Moderate

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

5A THC Chapter 341, SubChapter A 341.033(d)

Description: no bacteriological samples taken in May, Aug, October 2003 or Jan, Mar, Apr 2004

- 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 02/27/2007 (539491)

2 09/10/2007 (568323)

3 04/06/2009 (737524)

4 04/01/2009 (739004)

5 02/11/2011 (892910)

6 02/14/2011 (895883)

7 02/14/2011 (895892)

8 02/14/2011 (895899)

9 04/28/2011 (911864)

- 10 08/15/2011 (948795)
- 11 08/15/2011 (948886)
- 12 08/19/2011 (949142)
- 13 08/16/2011 (949179)
- 14 06/16/2011 (949200)
- 15 06/16/2011 (949206)

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

Date: 02/28/2007 (539491) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)
 Description: Failure to provide adequate pressure tank capacity.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
 Description: Failure to keep adequate disinfection and water use records as required.

Date: 03/29/2010 (892910) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Date: 09/29/2010 (895883) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 08/2010 - Failure to collect any routine monitoring sample(s).

Date: 10/26/2010 (895892) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Date: 01/04/2011 (895899) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 11/2010 - Failure to collect any routine monitoring sample(s).

Date: 03/31/2011 (948886) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).

Date: 06/03/2011 (948795) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring samples.

Date: 06/16/2011 (949200) CN603828203
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

Date: 06/16/2011 (949206) CN603828203
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010.

Date: 08/16/2011 (949179) CN603828203
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CHARLIE BROWN'S LEARNING	§	
CENTER	§	ENVIRONMENTAL QUALITY
RN102678430	§	

AGREED ORDER DOCKET NO. 2011-1509-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CHARLIE BROWN'S LEARNING CENTER ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it 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, the Respondent agrees to waive all notice and procedural rights.

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a day care center with a public water supply at 8010 East County Road 6100 in Lubbock County, Texas (the "Facility") that has four service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on August 15, 2011, TCEQ staff documented that the Respondent did not timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, at the time of the record review, it was documented that the Respondent did not timely submit DLQORs for the third quarter of 2010 through the first quarter of 2011.
3. During a record review conducted on August 15, 2011, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of February 2010, August 2010, September 2010, November 2010, February 2011 and April 2011.
4. During a record review conducted on August 15, 2011, TCEQ staff documented that the Respondent did not collect raw groundwater source *Escherichia coli* samples from all sources within 24 hours of being notified of a distribution total coliform-positive result during the month of June 2011.
5. During a record review conducted on August 15, 2011, TCEQ staff documented that the Respondent did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine distribution coliform sample collected during the month of June 2011.
6. The Respondent received notice of the violations on August 25, 2011.
7. The Executive Director recognizes that by October 3, 2011, the Respondent submitted DLQORs for the third quarter of 2010 through the first quarter of 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect raw groundwater source *Escherichia coli* samples from all sources within 24 hours of being notified of the distribution total coliform-positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Three Thousand Five Hundred Ninety Dollars (\$3,590) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Forty Dollars (\$140) of the administrative penalty. The remaining amount of Three Thousand Four Hundred Fifty Dollars (\$3,450) of the administrative penalty shall be payable in 30 monthly payments of One Hundred Fifteen Dollars (\$115) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Five Hundred Ninety Dollars (\$3,590) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: CHARLIE BROWN'S LEARNING CENTER, Docket No. 2011-1509-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
- a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine and repeat coliform distribution samples, triggered source monitoring samples when required and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting.
 - b. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.
 - d. Within 90 days after the effective date of this Agreed Order, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - e. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Public Water Supply Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/20/12

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of CHARLIE BROWN'S LEARNING CENTER. I am authorized to agree to the attached Agreed Order on behalf of CHARLIE BROWN'S LEARNING CENTER, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, CHARLIE BROWN'S LEARNING CENTER waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

11/5/2010

Date

CHARLIE BROWN

Name (Printed or typed)
Authorized Representative of
CHARLIE BROWN'S LEARNING CENTER

Owner

Title

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