

Executive Summary – Enforcement Matter – Case No. 41928
HIGH GABRIEL WATER SUPPLY CORPORATION
RN101224699
Docket No. 2011-1040-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Signal Hill Drive and United States Highway 186, Leander, Williamson County

Type of Operation:
public water system

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: January 20, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$3,841

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$3,841

Compliance History Classifications:
Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 6, 2011
Date(s) of NOV(s): See Compliance History – 13 related NOVs
Date(s) of NOE(s): June 10, 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 each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to mail or directly deliver one copy of the consumer confidence report (“CCR”) to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR had been distributed to the Facility's customers and that the information in the CCR was correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

Corrective Actions/Technical Requirements

Technical Requirements:

1. 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 quarterly DLQORs;
2. Within 30 days, mail or directly deliver one copy of the CCR prepared by using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers;
3. Within 45 days, submit to the TCEQ a copy of the CCR provided to the Facility's customers, certification that the CCR has been distributed to the facility's customers, and certification that the information in the CCR is correct and consistent with the compliance monitoring data;
4. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter; and
5. Within 105 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: October 27, 2011
Date(s) Green Card(s) Signed: October 28, 2011
Date(s) Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Sharesa Y. Alexander, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Andrea Byington, Water Enforcement Section, (512) 239-2579

TCEQ Regional Contact: Elston Johnston, Austin Central Office, (512) 239-6266

Respondent: Terry Tuttle, Director, High Gabriel Water Supply Corporation, 109 Arroyo Circle, Leander, Texas 78641

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Jun-2011	Screening	23-Jun-2011	EPA Due	30-Sep-2007
	PCW	11-Jul-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	HIGH GABRIEL WATER SUPPLY CORPORATION
Reg. Ent. Ref. No.	RN101224699
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41928	No. of Violations	2
Docket No.	2011-1040-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Andrea Byington
		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	\$2,300
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	67.0% Enhancement	Subtotals 2, 3, & 7	\$1,541
---------------------------	-------------------	--------------------------------	---------

Notes	Enhancement for 13 NOVs with same/similar violations and one NOV with dissimilar 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	\$1,533	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,426	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,841
-----------------------------	-----------------------	---------

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount	\$3,841
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,841
-----------------------------------	-------------------------------	---------

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	\$3,841
------------------------	---------

Screening Date 23-Jun-2011

Docket No. 2011-1040-PWS-E

PCW

Respondent HIGH GABRIEL WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 41928

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101224699

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

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>)	13	65%
	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	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) 67%

>> 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 13 NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 67%

Screening Date 23-Jun-2011

Docket No. 2011-1040-PWS-E

PCW

Respondent HIGH GABRIEL WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 41928

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101224699

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 1

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

Violation Description 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 each quarter. Specifically, at the time of the record review, it was documented that the Respondent did not submit DLQORs for the first quarter of 2006 through the fourth quarter of 2010.

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			10%
100% of the rule requirements were not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 20 Number of violation days 1736

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

Violation Base Penalty \$2,000

Twenty quarterly events are recommended, calculated for the quarters in which the reports were not submitted.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,125

Violation Final Penalty Total \$3,340

This violation Final Assessed Penalty (adjusted for limits) \$3,340

Economic Benefit Worksheet

Respondent HIGH GABRIEL WATER SUPPLY CORPORATION
Case ID No. 41928
Req. Ent. Reference No. RN101224699
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	\$250	10-Apr-2006	10-Jan-2012	5.76	\$72	n/a	\$72
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 cost to update the Facility's operational guidance and to conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, calculated from the date the first report was due to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$820	10-Apr-2006	10-Jan-2011	5.67	\$233	\$820	\$1,053

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to prepare and submit 20 quarters of DLQORs and report it to the Executive Director on a quarterly basis, calculated for the period in which the DLQORs were due.

Approx. Cost of Compliance

\$1,070

TOTAL

\$1,125

Screening Date 23-Jun-2011

Docket No. 2011-1040-PWS-E

PCW

Respondent HIGH GABRIEL WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 41928

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101224699

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years of 2007 through 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Potential				0%

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

100% of the rule requirements were not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3 Number of violation days 730

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

Violation Base Penalty \$300

Three annual 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)

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$408

Violation Final Penalty Total \$501

This violation Final Assessed Penalty (adjusted for limits) \$501

Economic Benefit Worksheet

Respondent HIGH GABRIEL WATER SUPPLY CORPORATION
Case ID No. 41928
Req. Ent. Reference No. RN101224699
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]				0.00	\$0	\$0	\$0
Other (as needed)	\$356	1-Jul-2008	1-Jul-2010	2.92	\$52	\$356	\$408

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the Facility, calculated for the years in which no reports were distributed.

Approx. Cost of Compliance \$356

TOTAL \$408

Compliance History

Customer/Respondent/Owner-Operator: CN600665517 HIGH GABRIEL WATER SUPPLY CORPORATION Classification: Rating:
Regulated Entity: RN101224699 HIGH GABRIEL WSC Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2460027
WATER LICENSING LICENSE 2460027
Location: SIGNAL HILL DRIVE AND US HIGHWAY 186, WILLIAMSON COUNTY, TEXAS
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: June 22, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 22, 2006 to June 22, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Byington Phone: (512) 239-2579

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/14/2007	(555613)
2	04/05/2010	(795012)
3	11/30/2010	(879522)
4	03/31/2011	(907987)
5	06/08/2011	(932533)
6	06/08/2011	(932599)
7	10/01/2009	(932709)
8	07/21/2009	(932733)
9	03/27/2009	(932800)
10	07/19/2007	(932809)
11	07/19/2007	(932823)
12	07/19/2007	(932828)
13	07/19/2007	(932835)
14	07/19/2007	(932846)
15	12/22/2010	(932937)
16	11/03/2009	(932943)
17	01/14/2009	(932950)
18	06/10/2011	(933113)

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

Date: 07/19/2007 (932846) **CN600665517**
Self Report? NO Classification: Moderate
Citation: 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 2006.

Date: 07/19/2007 (932823) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 2006.

Date: 07/19/2007 (932835) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 second quarter of 2006.

Date: 07/19/2007 (932809) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 2007.

Date: 07/19/2007 (932828) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 2006.

Date: 01/14/2009 (932950) CN600665517
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2007 to its bill-paying customers.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2007 CCR year to the TCEQ.

Date: 03/27/2009 (932800) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 2008.

Date: 07/21/2009 (932733) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 2009.

Date: 10/01/2009 (932709) CN600665517
Self Report? NO Classification: Moderate
Citation: 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 second quarter of 2009.

Date: 11/03/2009 (932943) CN600665517
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.

Date: 04/07/2010 (795012) CN600665517
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: The pressure tank was not equipped with an air/water level indicator.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: The air injection line for the pressure tank did not have a filter to prevent compressor lubricants from entering the system.

Date: 12/22/2010 (932937) CN600665517
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2009 to its bill-paying customers.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2009 CCR year to the TCEQ.

Date: 06/08/2011 (932599) CN600665517
Self Report? NO Classification: Moderate
Citation: 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: 06/08/2011 (932533) CN600665517
Self Report? NO Classification: Moderate
Citation: 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.

- 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

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HIGH GABRIEL WATER SUPPLY
CORPORATION;
RN101224699**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1040-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is HIGH GABRIEL WATER SUPPLY CORPORATION ("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 Signal Hill Drive and United States Highway 186 in Leander, Williamson County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 137 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on June 6, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. 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 each quarter. Specifically, Respondent did not submit DLQORs for the first quarter of 2006 through the fourth quarter of 2010; and
 - b. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR had been distributed to the Facility's customers and that the information in the CCR was correct and consistent with compliance monitoring data. Specifically, Respondent neither mailed nor directly delivered the CCRs to the Facility's customers nor did it submit the CCR and required certification to the TCEQ for the years of 2007 through 2009.
3. Respondent received notice of the violations on or about June 15, 2011.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of HIGH GABRIEL WATER SUPPLY CORPORATION" (the "EDPRP") in the TCEQ Chief Clerk's office on October 27, 2011.
5. By letter dated October 27, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on October 28, 2011, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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 submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR had been distributed to the Facility's customers and that the information in the CCR was correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. 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.
7. An administrative penalty in the amount of three thousand eight hundred forty-one dollars (\$3,841.00) 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.

8. 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 three thousand eight hundred forty-one dollars (\$3,841.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: HIGH GABRIEL WATER SUPPLY CORPORATION; Docket No. 2011-1040-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall 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, in accordance with 30 TEX. ADMIN. CODE § 290.110;
 - b. Within 30 days after the effective date of this Order, Respondent shall mail or directly deliver one copy of the CCR prepared by using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, in accordance with 30 TEX. ADMIN. CODE § 290.274;
 - c. Within 45 days after the effective date of this Order, Respondent shall submit to the TCEQ a copy of the CCR provided to the Facility's customers pursuant to Ordering Provision No. 3.b., certification that the CCR has been distributed to the Facility's customers, and certification that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certifications shall be mailed to:

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

- d. Within 90 days after the effective date of this Order, Respondent shall 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; and
- e. Within 105 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.d.
- f. 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
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

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

- 4. All relief not expressly granted in this Order is denied.

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

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHARESASA Y. ALEXANDER

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

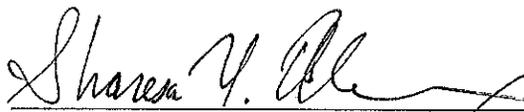
§

"My name is Sharesasa Y. Alexander. 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 HIGH GABRIEL WATER SUPPLY CORPORATION" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 27, 2011.

The EDPRP was mailed to Respondent's last known address on October 27, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 28, 2011, as evidenced by the signature on the card.

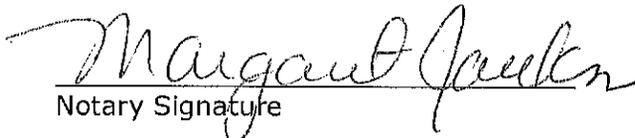
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Sharesasa Y. Alexander, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 15th day of December A.D. 2011.



Notary Signature

