

Executive Summary – Enforcement Matter – Case No. 41390
SHAWN M. HORVATH d/b/a AERO VALLEY WATER SERVICE
RN101198331
Docket No. 2011-0489-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
east of Interstate 35 West on Farm-to-Market Road 1171, one-half mile south on Cleveland Gibbs Road at Northwest Regional Airport, Denton County

Type of Operation:
public water system

Other Significant Matters:

Additional Pending Enforcement Actions: 2012-0271-PWS-E
Past-Due Penalties: \$32,236.16 (2002-0867-PWS-E; 2008-0962-PWS-E; and 2010-0619-PWS-E)
Past-Due Fees: \$1,347.52
Other: None
Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: March 30, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,991
Total Paid to General Revenue: \$0
Total Due to General Revenue: \$10,991

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 (PCW 2); September 2011 (PCW 1)

Docket No. 2011-0489-PWS-E

Investigation Information

Complaint Date(s): September 14, 2011
Complaint Information: Alleged that an improperly installed waterline was creating a potential flooding hazard; the line was not buried or secured and crossed an intermittent creek at several locations.

Date(s) of Investigation: February 3, 2011; March 29, 2011; May 27, 2011; September 15, 2011

Date(s) of NOV(s): See Compliance History – 19 related NOVs

Date(s) of NOE(s): February 22, 2011; May 27, 2011; September 16, 2011

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii), TEX. HEALTH & SAFETY CODE § 341.033(d), and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.a.i.].
2. Failed to provide a public notification of the failure to sample [30 TEX. ADMIN. CODE § 290.122(c)(2)(A)].
3. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].
4. Failed to submit a 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)].
5. Failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.b.i.].
6. Failed to submit 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 to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE § 290.274(c) and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.c.].
7. Failed to locate the top of the waterline below the frost line and at least 24 inches below the ground surface [30 TEX. ADMIN. CODE § 290.44(a)(4)].
8. Failed to install waterlines in a separate watertight pipe encasement and provide valves on each side of the crossing when waterlines are laid under any flowing or intermittent stream [30 TEX. ADMIN. CODE § 290.44(f)(2)].
9. Failed to operate the disinfection equipment to continuously maintain a disinfectant residual of 0.2 mg/L of free chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE § 290.46(d)(2)(A) and 290.110(b)(4) and TCEQ Default Order Docket No. 2010-0619-PWS-E, Ordering Provision No. 2.a.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of July 30, 2010:

- a. Began collecting routine distribution water samples for coliform analysis (Violation No. 1); and
- b. Implemented procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility (Violation No. 2).

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Docket No. 2011-0489-PWS-E

Technical Requirements:

1. Immediately begin operating the disinfection equipment to continuously maintain a disinfectant residual of 0.2 milligrams per liter of free chlorine throughout the distribution system at all times (Violation No. 9).
2. Within 30 days:
 - a. 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 monthly DLQORs (Violation No. 4);
 - b. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers (Violation No. 5);
 - c. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90610243 (Conclusion of Law No. 4); and
 - d. Submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 45 days:
 - a. Submit written certification to demonstrate compliance with Technical Requirements Nos. 2.a. and 2.c.; and
 - b. Submit to the Commission a copy of the CCR provided to customers of the Facility and the 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 the compliance monitoring data (Violation No. 6).
4. Within 60 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.b.
5. Within 90 days:
 - a. Begin submitting DLQORs to the Executive Director by the tenth day of the month following each quarter (Violation No. Law No. 4);
 - b. Ensure that all waterlines are located below the frost line and at least 24 inches below the ground surface (Violation No. 7); and
 - c. Ensure that all waterlines that are laid under any flowing or intermittent stream are encased in a separate, watertight pipe and valves are provided on each side of the stream crossing (Violation No. 8).
6. Within 105 days, submit written certification to demonstrate compliance with Technical Requirement No. 5.

Litigation Information

Date Petition(s) Filed: July 27, 2011 (EDPRP); January 26, 2012 (EDFARP)
Date(s) Green Card(s) Signed: Unclaimed (EDPRP); January 31, 2012 (EDFARP)
Date(s) Answer(s) Filed: N/A

Executive Summary – Enforcement Matter – Case No. 41390
SHAWN M. HORVATH d/b/a AERO VALLEY WATER SERVICE
RN101198331
Docket No. 2011-0489-PWS-E

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Stephen Thompson, Air Enforcement Section, (512) 239-2558

TCEQ Regional Contact: Sid Slocum, Dallas/Fort Worth Regional Office, (817) 588-5901

Respondent: Shawn M. Horvath, Aero Valley Water Service, P.O. Box 1398, Roanoke, Texas 76262

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Sep-2011			
	PCW	21-Oct-2011	Screening	29-Sep-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Shawn M. Horvath dba Aero Valley Water Service			
Reg. Ent. Ref. No.	RN101198331			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	41390	No. of Violations	5
Docket No.	2011-0489-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		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** **\$3,800**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	145.0%	Enhancement	Subtotals 2, 3, & 7	\$5,510
Notes	Enhancement for 19 NOVs with same/similar violations and two default orders.			
Culpability	No	0.0%	Enhancement	Subtotal 4
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	\$1,505	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$5,907			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$9,310**

OTHER FACTORS AS JUSTICE MAY REQUIRE **11.6%** **Adjustment** **\$1,081**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement for the recovery of avoided costs of compliance associated with violation nos. 1, 2 and 3.			
			Final Penalty Amount	\$10,391

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$10,391**

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 **\$10,391**

Screening Date	29-Sep-2011	Docket No.	2011-0489-PWS-E	PCW
Respondent	Shawn M. Horvath dba Aero Valley Water Service			Policy Revision 2 (September 2002)
Case ID No.	41390			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN101198331			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

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>)	19	95%
	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	2	50%
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) 145%

>> **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 19 NOVs with same/similar violations and two default orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 145%

Screening Date	29-Sep-2011	Docket No.	2011-0489-PWS-E	PCW
Respondent	Shawn M. Horvath dba Aero Valley Water Service			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41390			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101198331			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d) and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.a.i.

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of September 2009 through January 2010 and failed to provide a public notification of the failure to sample for the months of September 2009 through January 2010.

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 perform routine distribution coliform sampling may allow a significant amount of undetected contaminants that exceed levels protective of human health to be distributed to the public.

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, based on the months during which no samples were collected.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
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

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	30-Sep-2009	31-Jan-2010	1.25	\$8	\$125	\$133
Other (as needed)	\$125	31-Dec-2009	30-Apr-2010	1.25	\$8	\$125	\$133

Notes for AVOIDED costs

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

Approx. Cost of Compliance \$250

TOTAL \$266

Screening Date	29-Sep-2011	Docket No.	2011-0489-PWS-E	PCW
Respondent	Shawn M. Horvath dba Aero Valley Water Service			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41390			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101198331			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
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 checked="" 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 Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
Media Violation No. Public Water Supply
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$450	10-Apr-2006	10-Jan-2011	5.67	\$128	\$450	\$578
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to report disinfectant residual level data to the Executive Director on a quarterly basis, calculated for the period in which the reports were due.

Approx. Cost of Compliance \$450

TOTAL \$578

Screening Date	29-Sep-2011	Docket No.	2011-0489-PWS-E	PCW
Respondent	Shawn M. Horvath dba Aero Valley Water Service			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	41390			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101198331			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

Violation Number	3
Rule Cite(s)	30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(c) and TCEQ Default Order Docket No. 2008-0962-PWS-E Ordering Provision Nos. 2.b.i and 2.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 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 to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers for the years 2007 through 2009 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2007 through 2009.
Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		x			
100% of the rule requirement was not met.					
Adjustment					\$900

\$100

Violation Events

Number of Violation Events	3	329	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual	x	
	single event		
Three annual events (one for each annual report) are recommended.			\$300

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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$237 Violation Final Penalty Total \$820

This violation Final Assessed Penalty (adjusted for limits) \$820

Economic Benefit Worksheet

Respondent Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
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]	\$207	1-Jul-2008	1-Jul-2010	2.92	\$30	\$207	\$237
Other (as needed)				0.00	\$0	\$0	\$0

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 water supply, calculated for the years in which no reports were distributed.

Approx. Cost of Compliance \$207

TOTAL \$237

Screening Date 29-Sep-2011	Docket No. 2011-0489-PWS-E	PCW
Respondent Shawn M. Horvath dba Aero Valley Water Service		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 41390		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101198331		
Media [Statute] Public Water Supply		
Enf. Coordinator Stephen Thompson		

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **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

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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 Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
Media Violation No. Public Water Supply
 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	16-Mar-2011	1-Jun-2012	1.21	\$20	\$405	\$425
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to bury the waterline at least 24 inches below the ground surface, calculated from the date that the violation was originally documented 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$425

Screening Date 29-Sep-2011 **Docket No.** 2011-0489-PWS-E **PCW**
Respondent Shawn M. Horvath dba Aero Valley Water Service *Policy Revision 2 (September 2002)*
Case ID No. 41390 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101198331
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description

Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Year 2011 to the TCEQ.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
Media Violation No. Public Water Supply
 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

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	n/A					

Approx. Cost of Compliance

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Sep-2011		
	PCW	21-Oct-2011	Screening	29-Sep-2011
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Shawn M. Horvath dba Aero Valley Water Service		
Reg. Ent. Ref. No.	RN101198331		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41390	No. of Violations	2
Docket No.	2011-0489-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		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	\$200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	100.0%	Enhancement	Subtotals 2, 3, & 7	\$200
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Notes	Enhancement for 19 NOVs with same/similar violations and two default orders.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$325	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,700	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	50.0%	Adjustment	\$200
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement for the recovery of avoided costs of compliance associated with violation no. 2.
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Final Penalty Amount	\$600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$600
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$600
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Screening Date 29-Sep-2011

Docket No. 2011-0489-PWS-E

PCW

Respondent Shawn M. Horvath dba Aero Valley Water Service

Policy Revision 3 (September 2011)

Case ID No. 41390

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101198331

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

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>)	19	95%
	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	2	50%
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) 145%

>> **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 19 NOVs with same/similar violations and two default orders.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 145%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 100%

Screening Date	29-Sep-2011	Docket No.	2011-0489-PWS-E	PCW
Respondent	Shawn M. Horvath dba Aero Valley Water Service			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	41390			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101198331			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

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"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

>> 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"/>	<input type="text"/>
Ordinary	<input type="text"/>	<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 Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
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	\$2,500	15-Sep-2011	1-Jun-2012	0.71	\$6	\$119	\$125
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed costs include the estimated amount necessary to encase the waterline and install valves at points where the line crosses any flowing or intermittent stream, calculated from the date of the investigation 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,500	TOTAL	\$125
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Screening Date	29-Sep-2011	Docket No.	2011-0489-PWS-E	PCW
Respondent	Shawn M. Horvath dba Aero Valley Water Service			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	41390			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101198331			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="5.0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
<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"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	x	

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	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 Shawn M. Horvath dba Aero Valley Water Service
Case ID No. 41390
Req. Ent. Reference No. RN101198331
Media Violation No. Public Water Supply
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	15-Sep-2011	16-Sep-2011	0.00	\$0	\$200	\$200
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs The avoided costs include the estimated amount necessary to ensure that the disinfection equipment is properly operated and maintained to ensure that the drinking water supply is adequately disinfected, calculated for the date on which the low disinfectant residual reading occurred.							

Approx. Cost of Compliance \$200

TOTAL \$200

Compliance History

Customer/Respondent/Owner-Operator: CN600643563 HORVATH, SHAWN M Classification: Rating:
Regulated Entity: RN101198331 AERO VALLEY WATER SERVICE Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0610243
Location: E OF I35 W ON FM 1171, 1/2 MI S ON CLEVELAND GIBBS
RD AT NW REGIONAL AIRPORT, DENTON COUNTY, TX
TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: October 20, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 20, 2006 to October 20, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Stephen Thompson Phone: (512) 239-2558

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: 08/09/2009

ADMINORDER 2008-0962-PWS-E

Classification: Moderate

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

Description: Failed to collect routine distribution water samples for coliform analysis for the month of July 2007.

Classification: Moderate

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

Description: Failed to provide public notification of the failure to sample for the month of July 2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

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 a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year.

Classification: Moderate

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

Description: Failed to collect a set of repeat samples within 24 hours of being notified of a total coliform-positive sample result for the month of March 2008.

Classification: Moderate

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

Description: Failed to provide public notification of the failure to collect repeat water samples for the month of March 2008.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 290, SubChapter E 290.51(a)(6)

Description: Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Years 2003 through 2008 in a timely manner.

Classification: Moderate

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

Description: Failed to collect routine distribution water samples for coliform analysis for the months of August 2007 through December 2007.

Classification: Moderate

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

Description: Failed to provide public notification of the failure to sample for the months of August 2007 through December 2007.

Effective Date: 06/11/2011

ADMINORDER 2010-0619-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(ii)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a total storage capacity of at least 200 gallons per connection.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(iv)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a pressure tank capacity of at least 20 gallons per connection.

Classification: Moderate

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

Description: Failed to provide an intruder-resistant fence to protect the Facility's ground storage and pressure tanks.

Classification: Moderate

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

Description: Failed to maintain a residual disinfectant concentration of at least 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)
5A THSC Chapter 341, SubChapter A 341.034(b)

Description: Failed to ensure that the Facility is at all times operated under the direct supervision of a water works operator that holds a valid class "D" or higher license.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)

Description: Failed to keep on file and make available for review an up-to-date record of water works operations and maintenance activities for operator review and reference.

Classification: Minor

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

Description: Failed to provide a flow measuring device for the Facility's well.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failed to compile and maintain a thorough plant operations manual for operator review and reference.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(4)

Description: Failed to provide accurate metering devices at each residential, commercial, or industrial service connection.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failed to maintain copies of the well completion data such as well material setting data, geological data, sealing information, disinfection information, microbiological sampling results, and a chemical analysis report of a representative sample of water from the well on file at the Facility and to make the data available to the executive director upon request.

Classification: Minor

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

Description: Failed to post a legible sign at the water treatment facility that provides the name of the water supply and an emergency telephone number where a responsible official can be contacted.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 290, SubChapter D 290.51(a)(6)

Description: Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Years 2003 through 2010 to the TCEQ in a timely manner.

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	07/24/2008	(594975)	7	02/14/2011	(894994)	12	05/26/2011	(922598)
2	05/09/2008	(654945)	8	02/10/2011	(895157)	13	05/26/2011	(922599)
3	01/29/2010	(784447)	9	03/01/2011	(896005)	14	05/26/2011	(922601)
4	04/02/2010	(797044)	10	05/26/2011	(922540)	15	05/27/2011	(922607)
5	02/07/2011	(894633)	11	05/27/2011	(922558)	16	05/27/2011	(922610)
6	02/14/2011	(894988)				17	05/27/2011	(922614)

18	05/27/2011	(922616)	21	05/27/2011	(922637)	24	05/27/2011	(922938)
19	05/27/2011	(922619)	22	05/27/2011	(922640)	25	09/15/2011	(956279)
20	05/27/2011	(922633)	23	05/27/2011	(922642)			

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

Date: 07/19/2007 (922614)CN600643563
 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: 07/19/2007 (922616) CN600643563
 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 (922607) CN600643563
 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 (922610) CN600643563
 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 (922619) CN600643563
 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: 03/31/2008 (922642) CN600643563
 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 2006 CCR year to the TCEQ.

Date: 03/31/2008 (922642) CN600643563
 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 2006 to its bill-paying customers.

Date: 01/14/2009 (922640) CN600643563
 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: 01/14/2009 (922640) CN600643563
 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.

Date: 03/27/2009 (922601) CN600643563
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. This system also failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first, second, and third quarters of 2008 and the second, third, and fourth quarters of 2007 but notices of violation were not sent.

Date: 07/21/2009 (922599) CN600643563
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 (922598) CN600643563
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 (922637) CN600643563
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.
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.

Date: 11/05/2009 (894633) CN600643563
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/08/2009 (894988) CN600643563
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 10/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/26/2010 (894994) CN600643563
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 12/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/16/2010 (895157) CN600643563
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2010 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/22/2010 (922633) CN600643563
 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.
 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.

Date: 05/02/2011 (913210) CN600643563
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)
 Description: The top of the waterline must be located below the frost line and in no case shall the top of the waterline be less than 24 inches below ground surface. The waterline lies on top of the ground for several hundred yards.

Date: 05/26/2011 (922558) CN600643563
 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.

Date: 05/26/2011 (922540) CN600643563
 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. This system also failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third and fourth quarters of 2009 and the first and second quarters of 2010 but notices of violation were not sent.

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SHAWN M. HORVATH D/B/A
AERO VALLEY WATER
SERVICE;
RN101198331**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0489-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 5, 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 Shawn M. Horvath d/b/a Aero Valley Water Service ("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 east of Interstate 35 West on Farm-to-Market Road 1171, one-half mile south on Cleveland Gibbs Road at Northwest Regional Airport in Denton County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 38 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 February 3, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of September 2009 through January 2010; and
 - b. Failed to provide a public notification of the failure to sample for the months of September 2009 through January 2010.
3. During a record review conducted on March 29, 2011, a TCEQ Central Office Enforcement Coordinator documented that Respondent failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Year 2011.

4. During a record review conducted on May 27, 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;
 - 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. Specifically, Respondent did not mail or directly deliver the CCRs to the Facility's customers for the years 2007 through 2009; and
 - c. Failed to submit 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 to the TCEQ by July 1 of each year. Specifically, Respondent did not submit the CCR or the required certification to the TCEQ for the years 2007 through 2009.
5. During an investigation conducted on September 15, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to locate the top of the waterline below the frost line and at least 24 inches below the ground surface. Specifically, the waterline lies on top of the ground for several hundred yards;
 - b. Failed to install waterlines in a separate watertight pipe encasement and provide valves on each side of the crossing when waterlines are laid under any flowing or intermittent stream. Specifically, a two-inch, polyvinyl chloride waterline without encasement crossed an intermittent creek at several locations and was located in the creek bed for several yards; and
 - c. Failed to operate the disinfection equipment to continuously maintain a disinfectant residual of 0.2 milligrams per liter ("mg/L") of free chlorine throughout the distribution system at all times. Specifically, the disinfectant residual was measured to be 0.06 mg/L free chlorine within the distribution system.
6. Respondent received notice of the violations alleged in Finding of Fact No. 2 on or about February 27, 2011. Respondent received notice of the violations alleged in Finding of Fact No. 4 on or about June 1, 2011. Respondent received notice of the violations alleged in Finding of Fact No. 5 on or about September 21, 2011.
7. The Executive Director recognizes that as of July 30, 2010, Respondent:
 - a. Began collecting routine distribution water samples for coliform analysis (Conclusion of Law No. 2.); and
 - b. Implemented procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility (Conclusion of Law No. 3.).

8. 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 Shawn M. Horvath d/b/a Aero Valley Water Service" (the "EDPRP") in the TCEQ Chief Clerk's office on July 27, 2011.
9. By letter dated July 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. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
10. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Shawn M. Horvath d/b/a Aero Valley Water Service" (the "EDFARP") in the TCEQ Chief Clerk's office on January 26, 2012.
11. By letter dated January 26, 2012, 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 EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on January 31, 2012, as evidenced by the signature on the card.
12. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP. 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. WATER CODE ch. 5, 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 September 2009 through January 2010, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii), TEX. HEALTH & SAFETY CODE § 341.033(d), and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.a.i.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide a public notification of the failure to sample for the months of September 2009 through January 2010, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).
4. As evidenced by Finding of Fact No. 3., Respondent failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90610243 for Fiscal Year 2011, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.

5. As evidenced by Finding of Fact No. 4.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).
6. As evidenced by Finding of Fact No. 4.b., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.b.i.
7. As evidenced by Finding of Fact No. 4.c., Respondent failed to submit 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 to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE § 290.274(c) and TCEQ Default Order Docket No. 2008-0962-PWS-E, Ordering Provision No. 2.c.
8. As evidenced by Finding of Fact No. 5.a., Respondent failed to locate the top of the waterline below the frost line and at least 24 inches below the ground surface, in violation of 30 TEX. ADMIN. CODE § 290.44(a)(4).
9. As evidenced by Finding of Fact No. 5.b., Respondent failed to install waterlines in a separate watertight pipe encasement and provide valves on each side of the crossing when waterlines are laid under any flowing or intermittent stream, in violation of 30 TEX. ADMIN. CODE § 290.44(f)(2).
10. As evidenced by Finding of Fact No. 5.c., Respondent failed to operate the disinfection equipment to continuously maintain a disinfectant residual of 0.2 mg/L of free chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § 290.46(d)(2)(A) and 290.110(b)(4) and TCEQ Default Order Docket No. 2010-0619-PWS-E, Ordering Provision No. 2.a.ii.
11. As evidenced by Findings of Fact Nos. 8 and 9, 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(c)(2).
12. As evidenced by Findings of Fact Nos. 10 and 11, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
13. As evidenced by Finding of Fact No. 12, 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.
14. 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.

15. An administrative penalty in the amount of ten thousand nine hundred ninety-one dollars (\$10,991.00) 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.
16. 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 ten thousand nine hundred ninety-one dollars (\$10,991.00) 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: Shawn M. Horvath d/b/a Aero Valley Water Service; Docket No. 2011-0489-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. Immediately upon the effective date of this Order, Respondent shall begin operating the disinfection equipment to continuously maintain a disinfectant residual of 0.2 milligrams per liter of free chlorine throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.110 (Conclusion of Law No. 10).
 - b. Within 30 days after the effective date of this Order, Respondent shall:
 - i. 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 monthly DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 5);
 - ii. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data 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 (Conclusion of Law No. 6);

- iii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration ("FA") Account No. 90610243 (Conclusion of Law No. 4). The payment shall be sent with the notation "Shawn M. Horvath d/b/a Aero Valley Water Service, FA Account No. 90610243" 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

- iv. Submit written certification and detailed supporting documentation in accordance with Ordering Provision No. 3.g. below, to demonstrate compliance with Ordering Provision No. 3.a.

- c. Within 45 days after the effective date of this Order, Respondent shall:

- i. Submit written certification and detailed supporting documentation in accordance with Ordering Provision No. 3.g. below, to demonstrate compliance with Ordering Provisions Nos. 3.b.i. and 3.b.iii.;
- ii. Submit to the Commission a copy of the CCR provided to customers of the Facility and the 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 the compliance monitoring data, in accordance with 30 TEX. ADMIN. CODE § 290.274 (Conclusion of Law No. 7). The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section
Water Supply Division, MC155
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- d. Within 60 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation in accordance with Ordering Provision No. 3.g. below, to demonstrate compliance with Ordering Provision No. 3.c.ii.;

- e. Within 90 days after the effective date of this Order, Respondent shall:

- i. Begin submitting DLQORs to the Executive Director by the tenth day of the month following each quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 5). DLQORs shall be submitted to the following address:

Public Drinking Water Section
Attention: DLQOR Coordinator, MC 155
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- ii. Ensure that all waterlines are located below the frost line and at least 24 inches below the ground surface, in accordance with 30 TEX. ADMIN. CODE § 290.44 (Conclusion of Law No. 8); and
 - iii. Ensure that all waterlines that are laid under any flowing or intermittent stream are encased in a separate, watertight pipe and valves are provided on each side of the stream crossing, in accordance with 30 TEX. ADMIN. CODE § 290.44 (Conclusion of Law No. 9).
- f. Within 105 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.g., below, to demonstrate compliance with Ordering Provision Nos. 3.e.i. through 3.e.iii.
- g. 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

with a copy to:

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

and:

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Forth Worth, Texas 76118-6951

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 XAVIER GUERRA

STATE OF TEXAS

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COUNTY OF BEXAR

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"My name is Xavier Guerra. 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 Shawn M. Horvath d/b/a Aero Valley Water Service" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 27, 2011.

The EDPRP was mailed to Respondent's last known address on July 27, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Shawn M. Horvath d/b/a Aero Valley Water Service" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on January 26, 2012.

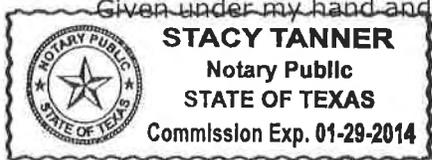
The EDFARP was mailed to Respondent's last known address on January 26, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on January 31, 2012, as evidenced by the signature on the card.

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

Xavier Guerra, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 16th day of April, A.D. 2012.



Notary Signature