

Executive Summary – Enforcement Matter – Case No. 41881
Francisca Richter d/b/a Hillside Water Works
RN101228492
Docket No. 2011-0992-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Intersection of State Highway 20 and Chicken Farm Road near, Vinton, El Paso 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: March 2, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,620

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$120

Total Due to General Revenue: \$1,500

Payment Plan: 15 payments of \$100 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: \$880 increase

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41881
Francisca Richter d/b/a Hillside Water Works
RN101228492
Docket No. 2011-0992-PWS-E**

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 31, 2011
Date(s) of NOV(s): See Compliance History – 15 related NOVs
Date(s) of NOE(s): June 3, 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 failed to mail or directly deliver one copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st 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 1st of each year [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].
3. Failed to collect a routine distribution water sample for coliform analysis for the month of February 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii)]

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. On August 22, 2011, six months of compliant routine coliform monitoring was completed;
2. On December 9, 2011, DLQORs were submitted for the first quarter of 2006 through the fourth quarter of 2010; and
3. On December 9, 2011, documentation demonstrating that CCRs for the years 2008 and 2009 had been delivered to bill-paying customers was submitted.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: October 3, 2011
Settlement Date: January 25, 2012

Contact Information

TCEQ Attorneys: Steven M. Fishburn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Stephen Thompson, Enforcement Division, (512) 239-2558
TCEQ Regional Contact: Kent Waggoner, El Paso Regional Office, (915) 834-4957
Respondent: Francisca Richter, P. O. Box 720, Canutillo, Texas 79835-0720
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	20-Jun-2011	EPA Due	31-Dec-2007
	PCW	28-Dec-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Francisca Richter dba Hillside Water Works
Reg. Ent. Ref. No.	RN101228492
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41881	No. of Violations	3
Docket No.	2011-0992-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	\$470
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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	103.0% Enhancement	Subtotals 2, 3, & 7	\$484
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Notes: Enhancement due to 15 NOVs with similar violations, four NOVs with dissimilar violations and one agreed final enforcement order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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: \$276
 Approx. Cost of Compliance: \$997
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$954
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.6%	Adjustment	\$25
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs of compliance.

Final Penalty Amount	\$979
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,620
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$1,620
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Screening Date 20-Jun-2011

Docket No. 2011-0992-PWS-E

PCW

Respondent Francisca Richter dba Hillside Water Works

Policy Revision 2 (September 2002)

Case ID No. 41881

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101228492

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>)	15	75%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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) 103%

>> 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 due to 15 NOVs with similar violations, four NOVs with dissimilar violations and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 103%

Screening Date 20-Jun-2011

Docket No. 2011-0992-PWS-E

PCW

Respondent Francisca Richter dba Hillside Water Works

Policy Revision 2 (September 2002)

Case ID No. 41881

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101228492

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

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

Violation Description Failed to timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, it was documented that the Respondent did not submit DLQORs for the first quarter of 2006 through the fourth quarter of 2010 until December 9, 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
				x	1%
Less than 30% of the rule requirement was not met.					

Adjustment \$990

\$10

Violation Events

Number of Violation Events 20 1736 Number of violation days

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

Violation Base Penalty \$200

Twenty quarterly events are recommended, calculated for the quarters in which DLQORs 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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$232

Violation Final Penalty Total \$417

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Francisca Richter dba Hillside Water Works
Case ID No. 41881
Req. Ent. Reference No. RN101228492
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	\$820	10-Apr-2006	9-Dec-2011	5.67	\$232	n/a	\$232
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 maintain disinfectant residual level data and report it to the Executive Director on a quarterly basis, calculated from the date that the first DLQOR was due to the 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

\$820

TOTAL

\$232

Screening Date 20-Jun-2011

Docket No. 2011-0992-PWS-E

PCW

Respondent Francisca Richter dba Hillside Water Works

Policy Revision 2 (September 2002)

Case ID No. 41881

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101228492

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(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 timely 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 2008 and 2009 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2008 and 2009 until December 9, 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (1%).

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

Adjustment \$990

\$10

Violation Events

Number of Violation Events 2 Number of violation days 731

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$20

Two annual events are recommended for the two years during which no CCR or certification of delivery was submitted to the TCEQ.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$20

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$42

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Francisca Richter dba Hillside Water Works
Case ID No. 41881
Req. Ent. Reference No. RN101228492
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	\$152	1-Jul-2009	9-Dec-2011	2.44	\$19	n/a	\$19
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 amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated from the date that the first CCR was due to the 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

\$152

TOTAL

\$19

Screening Date 20-Jun-2011

Docket No. 2011-0992-PWS-E

PCW

Respondent Francisca Richter dba Hillside Water Works

Policy Revision 2 (September 2002)

Case ID No. 41881

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101228492

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 3

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

Violation Description

Failed to collect a routine distribution water sample for coliform analysis for the month of February 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 \$750

\$250

Violation Events

Number of Violation Events 1 28 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended, calculated for the month in which no sample was collected.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$521

This violation Final Assessed Penalty (adjusted for limits) \$521

Economic Benefit Worksheet

Respondent Francisca Richter dba Hillside Water Works
Case ID No. 41881
Req. Ent. Reference No. RN101228492
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	1-Feb-2011	28-Feb-2011	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a routine sample (\$25 per sample), calculated for the month in which no sample was collected.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Compliance History

Customer/Respondent/Owner-Operator: CN603390097 RICHTER, FRANCISCA Classification: Rating:
Regulated Entity: RN101228492 HILLSIDE WATER WORKS Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0710050
Location: SH 20 & CHICKEN FARM RD NEAR VINTON, EL PASO COUNTY, TX
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: June 20, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 20, 2006 to June 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: 06/15/2009

ADMINORDER 2008-1559-PWS-E

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.

- 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	07/12/2006	(486379)
2	02/19/2007	(541149)
3	08/29/2008	(687619)
4	02/19/2009	(725209)
5	07/10/2009	(760996)
6	01/14/2009	(762865)
7	01/19/2009	(762974)
8	06/24/2009	(762984)
9	07/29/2009	(764036)
10	11/16/2010	(872518)
11	05/10/2011	(915066)
12	06/01/2011	(923376)
13	06/03/2011	(923469)
14	06/03/2011	(923542)
15	06/03/2011	(923886)
16	06/03/2011	(923893)
17	06/03/2011	(923899)
18	06/03/2011	(923904)

19 06/03/2011 (923907)
 20 06/03/2011 (923910)
 21 06/03/2011 (923916)
 22 06/03/2011 (923921)
 23 06/03/2011 (923927)
 24 06/03/2011 (923928)
 25 06/03/2011 (923931)

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

Date: 07/12/2006 (486379) CN603390097
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(9)
 Description: Entity has more than 3 pressure tanks.

Date: 07/12/2006 (486379) CN603390097
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
 Description: Inappropriate roof access opening.

Date: 07/12/2006 (486379) CN603390097
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
 Description: Inadequate minimum water system capacity requirements.

Date: 07/12/2006 (486379) CN603390097
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
 Description: Ground storage tank does not meet AWWA standards.

Date: 07/12/2006 (486379) CN603390097
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failure to have the ground storage and pressure tanks inspected at least annually.

Date: 07/12/2006 (486379) CN603390097
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)
 Description: Failure to have a pressure release device for the pressure tank system.

Date: 07/19/2007 (923910) CN603390097
 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 (923907) CN603390097
 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 (923927) CN603390097
 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 (923921) CN603390097
 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 (923916) CN603390097
 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 (762865) CN603390097
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for arsenic during the third quarter of 2008.

Date: 01/19/2009 (762974) CN603390097
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the fourth quarter of 2008.

Date: 02/19/2009 (725209) CN603390097
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to have the ground storage and pressure tanks inspected at least annually.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)
Description: Failure to have a pressure release device for the pressure tank system.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)
Description: Failure to maintain the system under the direct supervision of a licensed water operator.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
Description: Failure to maintain annual tank inspection forms.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
Description: Failure to submit Disinfectant Quarterly Level Operating Reports (DQLOR), and maintain copies of these for review during investigations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
Description: Failure to maintain a sample site monitoring plan or distribution system map.

Date: 03/27/2009 (923904) CN603390097
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 quarterly period from 10/01/2008 to 12/31/2008. 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: 06/24/2009 (762984) CN603390097
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the first quarter of 2009.

Date: 07/21/2009 (923899) CN603390097
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 (923893) CN603390097
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 (923931) CN603390097
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: 11/17/2010 (872518) CN603390097
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)

Description: Failure to complete disinfection level quarterly operating reports.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failure to have a cross connection program. The regulated entity has failed to conduct customer service inspections and have customer service agreements.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failure to have ground storage tanks and pressure tanks inspected annually. At the time of the investigation, the operator informed the investigator that the annual tank inspections had not been conducted.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to have a monitoring plan.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to seal the well head.
Date: 12/22/2010 (923928) CN603390097

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: 03/31/2011 (923376) CN603390097

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

Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).
Date: 06/01/2011 (923542) CN603390097

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.
Date: 06/01/2011 (923886) CN603390097

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FRANCISCA RICHTER D/B/A
HILLSIDE WATER WORKS;
RN101228492**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0992-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Francisca Richter d/b/a Hillside Water Works ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

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

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

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at the intersection of State Highway 20 and Chicken Farm Road near Vinton, El Paso County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 52 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 May 31, 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, at the time of the record review, Respondent had not submitted 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 1st of each year and failed to timely 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 1st of each year. Specifically, Respondent did not mail or directly deliver the CCRs to the Facility's customers for the years 2008 and 2009 nor did Respondent timely submit the CCR or the required certification to the TCEQ for the years 2008 and 2009; and
 - c. Failed to collect a routine distribution water sample for coliform analysis for the month of February 2011.
3. Respondent received notice of the violations on or about June 8, 2011.
4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. On August 22, 2011, six months of compliant routine coliform monitoring was completed;
 - b. On December 9, 2011, DLQORs were submitted for the first quarter of 2006 through the fourth quarter of 2010; and
 - c. On December 9, 2011, documentation demonstrating that CCRs for the years 2008 and 2009 had been delivered to bill-paying customers was submitted.

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 1st of each year and failed to timely 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 1st of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect a routine distribution water sample for coliform analysis for the month of February 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii).
5. 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.

6. An administrative penalty in the amount of one thousand six hundred twenty dollars (\$1,620.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid one hundred twenty dollars (\$120.00) of the administrative penalty. The remaining amount of one thousand five hundred dollars (\$1,500.00) of the administrative penalty shall be payable in fifteen (15) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 6, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Francisca Richter d/b/a Hillside Water Works, Docket No. 2011-0992-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

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

CM Sweeney
For the Executive Director

4/30/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Francisca Richter d/b/a Hillside Water Works, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Francisca Richter
Francisca Richter

01-25-12
Date