

**Executive Summary – Enforcement Matter – Case No. 42173**  
**NIGTON-WAKEFIELD WATER SUPPLY CORPORATION**  
**RN101219277**  
**Docket No. 2011-1322-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

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

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

NIGTON-WAKEFIELD WSC, Farm-to-Market Road 2262 and Highway 94, Trinity County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 16, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,564

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$164

**Total Due to General Revenue:** \$1,400

Payment Plan: 14 payments of \$100 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42173**  
**NIGTON-WAKEFIELD WATER SUPPLY CORPORATION**  
**RN101219277**  
**Docket No. 2011-1322-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** July 11, 2011  
**Date(s) of NOE(s):** July 15, 2011

***Violation Information***

1. Failed to comply with the maximum contaminant level (“MCL”) of 0.080 milligrams per liter (“mg/L”) for total trihalomethanes (“TTHM”) based on a running annual average [30 TEX. ADMIN. CODE § 290.113(b)(1) and (f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
3. Failed to provide the results of disinfection by-product sampling to the TCEQ’s Executive Director [30 TEX. ADMIN. CODE § 290.113(e)].
4. Failed to comply with the MCL of 0.060 mg/L for haloacetic acid (“HAA5”) based on a running annual average [30 TEX. ADMIN. CODE § 290.113(b)(2) and (f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting;
- b. Within 30 days:
  - i. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established; and
  - ii. Implement improvements to the Facility’s process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility’s laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later.

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- c. Within 45 days, submit written certification as described in Ordering Provision f. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions b.i. and b.ii.
- d. Within 195 days, submit written certification as described in Ordering Provision f. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.
- e. Within 365 days, return to compliance with the running annual average MCLs for TTHM and HAA5; and
- f. Within 380 days, submit written certification demonstrating compliance.

***Litigation Information***

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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Stephen Thompson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2558; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Jessie E. Wheeler, President, NIGTON-WAKEFIELD WATER SUPPLY CORPORATION, P.O. Box 117, Apple Springs, Texas 75926  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	18-Jul-2011	<b>Screening</b>	29-Jul-2011	<b>EPA Due</b>	31-Dec-2010
	<b>PCW</b>	12-Sep-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	NIGTON-WAKEFIELD WATER SUPPLY CORPORATION
<b>Reg. Ent. Ref. No.</b>	RN101219277
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	42173	<b>No. of Violations</b>	4
<b>Docket No.</b>	2011-1322-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Andrea Byington
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,050
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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.

<b>Compliance History</b>	49.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$514
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Notes: Enhancement for nine NOVs with same/similar violations and two NOVs with dissimilar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,013	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,525	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,564
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$1,564
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,564
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$1,564
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Screening Date 29-Jul-2011

Docket No. 2011-1322-PWS-E

PCW

Respondent NIGTON-WAKEFIELD WATER SUPPLY CORPORATI

Policy Revision 2 (September 2002)

Case ID No. 42173

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219277

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	9	45%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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) 49%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for nine NOVs with same/similar violations and two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 49%

Screening Date 29-Jul-2011

Docket No. 2011-1322-PWS-E

PCW

Respondent NIGTON-WAKEFIELD WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42173

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219277

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(b)(1) and (f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentrations for TTHM were 0.107 mg/L for the third quarter of 2009, 0.130 mg/L for the fourth quarter of 2009, 0.130 mg/L for the first quarter of 2010, and 0.259 mg/L for the second quarter of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Exceeding the MCL for TTHM exposes customers of the Facility to significant amounts of contaminants, which do not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

364 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$250

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$875

Violation Final Penalty Total \$373

This violation Final Assessed Penalty (adjusted for limits) \$373

## Economic Benefit Worksheet

**Respondent** NIGTON-WAKEFIELD WATER SUPPLY CORPORATION  
**Case ID No.** 42173  
**Reg. Ent. Reference No.** RN101219277  
**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)	\$5,000	1-Jul-2009	31-Dec-2011	2.50	\$42	\$834	\$875
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount for the Facility to implement an alternative form of disinfection, calculated from the first quarter of noncompliance 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**

\$875

Screening Date 29-Jul-2011

Docket No. 2011-1322-PWS-E

PCW

Respondent NIGTON-WAKEFIELD WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42173

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219277

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 2

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 routine distribution water samples for coliform analysis for the month of April 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$373

This violation Final Assessed Penalty (adjusted for limits) \$373

## Economic Benefit Worksheet

**Respondent** NIGTON-WAKEFIELD WATER SUPPLY CORPORATION  
**Case ID No.** 42173  
**Req. Ent. Reference No.** RN101219277  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	1-Apr-2011	30-Apr-2011	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to collect one routine monthly sample, calculated for the month in which routine sampling did not occur.

Approx. Cost of Compliance \$25

**TOTAL** \$25

Screening Date 29-Jul-2011

Docket No. 2011-1322-PWS-E

PCW

Respondent NIGTON-WAKEFIELD WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42173

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219277

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.113(e)

Violation Description

Failed to provide the results of quarterly disinfection by-product sampling to the TCEQ's Executive Director. Specifically, the Respondent did not provide results for the third quarter of 2010 through the first quarter of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3

273 Number of violation days

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

Violation Base Penalty \$300

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$113

Violation Final Penalty Total \$447

This violation Final Assessed Penalty (adjusted for limits) \$447

## Economic Benefit Worksheet

**Respondent** NIGTON-WAKEFIELD WATER SUPPLY CORPORATION  
**Case ID No.** 42173  
**Req. Ent. Reference No.** RN101219277  
**Media** Public Water Supply  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$1,500	1-Jul-2010	31-Dec-2011	1.50	\$113	n/a	\$113

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release the disinfectant by-product sampling results and the Respondent can provide them to the TCEQ, calculated from the date the results were not provided 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	\$1,500	<b>TOTAL</b>	\$113
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Screening Date 29-Jul-2011

Docket No. 2011-1322-PWS-E

PCW

Respondent NIGTON-WAKEFIELD WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 42173

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101219277

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.113(b)(2) and (f)(5) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acid ("HAA5"), based on a running annual average. Specifically, at the time of the record review, it was documented that the running annual average concentration for HAA5 was 0.097 mg/L for the second quarter of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Exceeding the MCL for HAA5 exposes customers of the Facility to significant amounts of contaminants, which do not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 90

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$250

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$373

This violation Final Assessed Penalty (adjusted for limits) \$373

# Economic Benefit Worksheet

**Respondent** NIGTON-WAKEFIELD WATER SUPPLY CORPORATION  
**Case ID No.** 42173  
**Reg. Ent. Reference No.** RN101219277  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

The delayed cost is captured in Violation No. 1 of the PCW.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN600661094 NIGTON-WAKEFIELD WATER Classification: Rating:  
SUPPLY CORPORATION

Regulated Entity: RN101219277 NIGTON WAKEFIELD WSC Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2280036

Location: FARM-TO-MARKET ROAD 2262 AND HIGHWAY 94, TRINITY COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 28, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 28, 2006 to July 28, 2011

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

Name: Andrea Byington Phone: (512) 239-2579

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

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

1	07/02/2007	(560722)
2	02/22/2008	(614213)
3	01/14/2010	(785574)
4	04/13/2010	(797803)
5	11/16/2009	(940911)
6	07/15/2011	(940938)
7	02/23/2010	(940946)
8	04/28/2010	(940964)
9	07/13/2011	(940971)
10	07/13/2011	(940979)
11	07/13/2011	(941029)
12	07/13/2011	(941041)
13	07/13/2011	(941052)
14	07/15/2011	(941171)

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

Date:	07/02/2007	(560722)	CN600661094
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to provide an appropriate plant operations manual.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to have an up-to-date chemical and microbiological monitoring plan.		
Self Report?	NO		Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
Description: Failure to maintain the minimum disinfectant residual in the distribution system.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)  
Description: Failure to adopt an adequate plumbing ordinance, regulations, or service agreement.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)  
Description: Failure to complete customer service inspection certificates prior to providing continuous water service to new construction and after additions to private water distribution facilities.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
Description: Failure to have electrical wiring securely installed in compliance with a local or national electric code.  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
Description: Failure to obtain a 210 authorization or an appropriate discharge permit for the filter back wash waste water being discharged from the drinking water plant.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 288, SubChapter C 288.30(5)(B)  
Description: Failure to have a drought contingency plan available for inspection.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
Description: Failure to have operating records accessible for review during an inspection.

Date: 11/16/2009 (940911) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2009.

Date: 01/14/2010 (785574) CN600661094  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)  
Description: Failure to notify the TCEQ of changes in treatment at Nigton Plant No. 1.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(A)  
Description: Failure to collect bacteriological samples at locations representative of the distribution system.

Date: 02/23/2010 (940946) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2009.

Date: 04/28/2010 (940964) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2010.

Date: 06/03/2011 (940938) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Date: 07/13/2011 (941052) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2010.

Date: 07/13/2011 (940971) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2010.

Date: 07/13/2011 (941041) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(1)  
30 TAC Chapter 290, SubChapter F 290.113(f)(2)  
Description: This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the first quarter of 2011.

Date: 07/13/2011 (940979) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(1)  
30 TAC Chapter 290, SubChapter F 290.113(f)(2)  
Description: This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the third quarter of 2010.

Date: 07/13/2011 (941029) CN600661094  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(1)  
30 TAC Chapter 290, SubChapter F 290.113(f)(2)  
Description: This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system 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  
NIGTON-WAKEFIELD WATER  
SUPPLY CORPORATION  
RN101219277**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-1322-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding NIGTON-WAKEFIELD WATER SUPPLY CORPORATION (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

## I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at Farm-to-Market Road 2262 and Highway 94, Trinity County, Texas (the "Facility") that has approximately 184 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on July 11, 2011, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentrations for TTHM were 0.107 mg/L for the third quarter of 2009, 0.130 mg/L for the fourth quarter of 2009, 0.130 mg/L for the first quarter of 2010, and 0.259 mg/L for the second quarter of 2010.
3. During a record review conducted on July 11, 2011, TCEQ documented that the Respondent did not collect routine distribution water samples for coliform analysis for the month of April 2011.
4. During a record review conducted on July 11, 2011, TCEQ documented that the Respondent did not provide the results of disinfection by-product sampling to the TCEQ's Executive Director. Specifically, the Respondent did not provide results for the third quarter of 2010 through the first quarter of 2011.
5. During a record review conducted on July 11, 2011, TCEQ staff documented that the Respondent did not comply with the MCL of 0.060 mg/L for haloacetic acid ("HAA5"), based on a running annual average. Specifically, the running annual average concentration for HAA5 was 0.097 mg/L for the second quarter of 2010.
6. The Respondent received notice of the violations on July 29, 2011.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM based on a running annual average, in violation of

30 TEX. ADMIN. CODE § 290.113(b)(1) and (f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).

3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide the results of disinfection by-product sampling to the TCEQ's Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.113(e).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5 based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(b)(2) and (f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of One Thousand Five Hundred Sixty-Four Dollars (\$1,564) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Sixty-Four Dollars (\$164) of the administrative penalty. The remaining amount of One Thousand Four Hundred Dollars (\$1,400) of the administrative penalty shall be payable in 14 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Five Hundred Sixty-Four Dollars (\$1,564) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: NIGTON-WAKEFIELD WATER SUPPLY CORPORATION, Docket No. 2011-1322-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting;
  - b. Within 30 days after the effective date of this Agreed Order:
    - i. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE § 290.113 Disinfection By-products (TTHM and HAA5); and
    - ii. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the

Facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.113 Disinfection By-products (TTHM and HAA5).

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.b.i. and 2.b.ii.
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
- e. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCLs for TTHM and HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
- f. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

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

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

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

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Perry D. Jansen Jr.*

For the Executive Director

5/16/12

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of NIGTON-WAKEFIELD WATER SUPPLY CORPORATION. I am authorized to agree to the attached Agreed Order on behalf of NIGTON-WAKEFIELD WATER SUPPLY CORPORATION, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, NIGTON-WAKEFIELD WATER SUPPLY CORPORATION waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

*Jessie E. Wheeler*  
Signature

11-3-11  
Date

Jessie E. Wheeler  
Name (Printed or typed)

President  
Title

Authorized Representative of  
NIGTON-WAKEFIELD WATER SUPPLY CORPORATION

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