

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43453
MOSTAFA A. SOLIMAN D/B/A WILLOWBROOK SUBDIVISION
RN101256121
Docket No. 2012-0267-PWS-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

31902 Willowbrook Street, Waller, Waller County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$1,173 (2005-0150-MLM-E; uncollectable); \$4,722.48 (2010-0222-PWS-E; referred for collection)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: May 11, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$293

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$293

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September 23 and 26, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): December 19, 2011

Violation Information

Failed to issue a boil water notice to the customers of the Facility within 24 hours of low distribution pressure using the prescribed format in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1) and(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 60 days, incorporate the flowchart identified in 30 TEX. ADMIN. CODE § 290.47(h) into the Facility's plant operations manual and implement the procedures outlined in the flowchart to ensure that all required boil water notices are provided to the customers of the Facility within 24 hours of a low distribution pressure event, water outage, positive *Escherichia coli* or fecal coliform sample, low chlorine residual, elevated finished water turbidity level, or other condition which indicates that the potability of the drinking water has been compromised.
2. Within 75 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: March 15, 2012
Date Answer(s) Filed: Unclaimed

Contact Information

TCEQ Attorneys: Jeff Huhn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Michaelle Sherlock, Enforcement Division, (201) 403-4076

TCEQ Regional Contact: Stephen Smith, Houston Regional Office, (713) 767-3581

Respondent: Mostafa A. Soliman, 15628 Ginger Lane, Houston, Texas 77040-1300

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Jan-2012	Screening	30-Jan-2012	EPA Due	
	PCW	30-Jan-2012				

RESPONDENT/FACILITY INFORMATION						
Respondent	Mostafa A. Soliman dba Willowbrook Subdivision					
Reg. Ent. Ref. No.	RN101256121					
Facility/Site Region	12-Houston	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	43453	No. of Violations	1			
Docket No.	2012-0267-PWS-E	Order Type	1660			
Media Program(s)	Public Water Supply	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Michaelle Sherlock			
		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	\$150
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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	29.0% Enhancement	Subtotals 2, 3, & 7	\$43
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Notes	Enhancement for two dissimilar NOVs and one adjudicated final enforcement order.		
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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	\$107	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$200	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$193
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OTHER FACTORS AS JUSTICE MAY REQUIRE	51.8%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost associated with Violation No. 1.		
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Final Penalty Amount	\$293
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$293
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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	Deferral not offered for non-expedited settlement.		
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PAYABLE PENALTY	\$293
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Screening Date 30-Jan-2012

Docket No. 2012-0267-PWS-E

PCW

Respondent Mostafa A. Soliman dba Willowbrook Subdivision

Policy Revision 3 (September 2011)

Case ID No. 43453

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101256121

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

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>)	0	0%
	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 29%

>> **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 two dissimilar NOVs and one adjudicated final enforcement order.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 29%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 29%

Screening Date 30-Jan-2012

Docket No. 2012-0267-PWS-E

PCW

Respondent Mostafa A. Soliman dba Willowbrook Subdivision

Policy Revision 3 (September 2011)

Case ID No. 43453

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101256121

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(q)(1) and (2)

Violation Description Failed to issue a boil water notification to the customers of the Facility within 24 hours of low pressure using the prescribed format in 30 Tex. Admin. Code § 290.47(e). Specifically, the Willowbrook Subdivision lost pressure from September 22, 2011 through September 23, 2011 due to a non-functioning well control box and the Respondent did not adhere to the special precautions set forth in 30 Tex. Admin. Code § 290.47(h) and did not issue a boil water notice to the affected customers within 24 hours of the low pressure.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

Matrix Notes Failure to issue a boil water notice may not allow affected customers to take appropriate measures in response to low pressure and could expose customers of the Facility to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 Number of violation days 2

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

Violation Base Penalty \$150

One single event is recommended.

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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$293

This violation Final Assessed Penalty (adjusted for limits) \$293

Economic Benefit Worksheet

Respondent Mostafa A. Soliman dba Willowbrook Subdivision
Case ID No. 43453
Req. Ent. Reference No. RN101256121
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)	\$100	23-Sep-2011	1-Sep-2012	0.94	\$0	\$6	\$7
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 costs include the estimated amount to update the standard operating procedures to ensure boil water notices are issued in a timely manner, calculated from the initial 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]	\$100	23-Sep-2011	24-Sep-2011	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to provide all affected customers with boil water notification, calculated for the a period boil water notice should have been issued.

Approx. Cost of Compliance

\$200

TOTAL

\$107

Compliance History Report

Customer/Respondent/Owner-Operator: CN602198103 SOLIMAN, MOSTAFA A. Classification: Rating:
Regulated Entity: RN101256121 WILLOWBROOK SUBDIVISION Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2370049
Location: 31902 WILLOWBROOK ST, WALLER, WALLER COUNTY, TEXAS
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: January 30, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 30, 2007 to January 30, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michaele Sherlock Phone: (210) 403-4076

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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: 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: 12/19/2011

ADMINORDER 2010-0222-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
5A THSC Chapter 341, SubChapter A 341.033

Rqmt Prov: OP 2.a. - 2.d. ORDER

Description: Failed to operate the Facility under the direct supervision of a water works operator who holds a valid class "D" or higher license.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: OP 2.a. - 2.d. ORDER

Description: Failed to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 milligrams per liter free chlorine.

Classification: Major

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

Rqmt Prov: OP 2.a. - 2.d. ORDER

Description: Failed to initiate maintenance and housekeeping practices to ensure a good general appearance of the Facility.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Rqmt Prov: OP 2.a. - 2.d. ORDER

Description: Failed to secure a sanitary control easement covering all property within 150 feet of the well or an exemption from that requirement.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)

Rqmt Prov: OP 2.a. - 2.d. ORDER

Description: Failed to provide a well capacity of 1.5 gallons per minute per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi)
30 TAC Chapter 290, SubChapter D 290.46(n)(2)
30 TAC Chapter 290, SubChapter F 290.121(a)
30 TAC Chapter 290, SubChapter F 290.121(b)

Rqmt Prov: OP 2.a.vi. ORDER

Description: Failed to compile Monthly Reports of Water Works Operation regularly each month and keep on file for commission review for at least 2 years.

Classification: Minor

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

Description: Failed to post a legible sign at the Facility that contained the name of the water supply and the emergency telephone numbers where a responsible official could be contacted.

Classification: Moderate

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: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failed to house the hypochlorination solution container and pump in a secure enclosure to protect them from adverse weather conditions and vandalism.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(P)
Description: Failed to provide an all-weather access road to the Facility well site.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 02/07/2007 (489805)
2 01/27/2010 (788309)
3 05/03/2010 (796085)

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

Date: 02/01/2007 (489805) CN602198103

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)
30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)
5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failure to have a licensed water works operator as per agency regulations.

Self Report? NO Classification: Moderate

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

Description: Failure to provide service agreements at the time of the investigation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide recorded sanitary control easements or an approved substitute for the well at the time of the investigation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)

Description: Failure to provide a well capacity of 1.5 gallons per minute per connection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)

Description: Failure to provide a pressure tank capacity of 50 gallons per connection.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure to submit an 85% planning report to the executive director for approval when the system has reached 85% of its capacity. 85% capacity has been exceeded for well production and pressure tank capacity.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Self Report? NO Classification: Moderate

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

Description: Failure to install a flow meter on the well pump discharge line as per agency regulations.

Self Report? NO Classification: Minor

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

Description: Failed to provide maintenance practices for a public water system so as to ensure the good working condition of the facilities equipment and general appearance of all regulated facilities.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)

Description: Failure to provide records of the volume of water treated and pumped each week as per agency regulations.

Self Report? NO Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Description: Failed to comply with Agreed Order Docket No. 2005-0150-MLM-E.

Date: 07/13/2011 (937913) CN602198103

Self Report? NO Classification: Moderate

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

Description: Failure to design and maintain a water distribution system to provide at all points within the distribution network a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute per connection at each service outlet or connection.

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
MOSTAFA A. SOLIMAN
D/B/A WILLOWBROOK
SUBDIVISION;
RN101256121**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-0267-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Mostafa A. Soliman d/b/a Willowbrook Subdivision ("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 31902 Willowbrook Street in Waller, Waller County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 22 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 an investigation conducted on September 23 and 26, 2011, a TCEQ Houston Regional Office investigator documented that Respondent failed to issue a boil water notice to the customers of the Facility within 24 hours of low distribution pressure using the prescribed format in 30 TEX. ADMIN. CODE § 290.47(e). Specifically, the Willowbrook Subdivision lost pressure from September 22, 2011 through September 23, 2011 due to a non-functioning well control box and Respondent did not adhere to the special precautions set forth in 30 TEX. ADMIN. CODE § 290.47(h) and did not issue a boil water notice to the affected customers within 24 hours of the low distribution pressure.
3. Respondent received notice of the violation on or about December 24, 2011.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mostafa A. Soliman" (the "EDPRP") in the TCEQ Chief Clerk's office on March 15, 2012.

5. By letter dated March 15, 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 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.
6. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to issue a boil water notice to the customers of the Facility within 24 hours of low distribution pressure using the prescribed format in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1) and(2).
3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
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 two hundred ninety-three dollars (\$293.00) 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.
7. 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 two hundred ninety-three dollars (\$293.00) 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: Mostafa A. Soliman; Docket No. 2012-0267-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Order, Respondent shall incorporate the flowchart identified in 30 TEX. ADMIN. CODE § 290.47(h) into the Facility's plant operations manual and implement the procedures outlined in the flowchart to ensure that all required boil water notices are provided to the customers of the Facility within 24 hours of a low distribution pressure event, water outage, positive *Escherichia coli* or fecal coliform sample, low chlorine residual, elevated finished water turbidity level, or other condition which indicates that the potability of the drinking water has been compromised, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 75 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification 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 certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Stephen Smith, Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk St., Suite H
Houston, Texas 77023-1452

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 JEFFREY J. HUHN

STATE OF TEXAS

§

COUNTY OF BEXAR

§

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"My name is Jeffrey J. Huhn. 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 Mostafa A. Soliman d/b/a Willowbrook Subdivision" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 15, 2012.

The EDPRP was mailed to Respondent's last known address on March 15, 2012, 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).

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



Jeffrey J. Huhn, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jeffrey J. Huhn, 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 25 day of April, A.D. 2012.



Notary Signature

