Executive Summary – Enforcement Matter – Case No. 46302
Mark Stewart
RN101194447
Docket No. 2013-0407-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:
No
Location(s) Where Violation(s) Occurred:
Green Hills Subdivision, 563 County Road 4115, Cass 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: September 20, 2013
Comments Received: No

Penalty Information

Total Penalty Assessed: $4,861
Amount Deferred for Expedited Settlement: $0
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $136
Total Due to General Revenue: $4,725
Payment Plan: 35 payments of $135 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 and September 2011

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Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 26, 2012 and February 25, 2013
Date(s) of NOE(s): December 12, 2012 and March 6, 2013

Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") for total coliform [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

2. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].

3. Failed to collect raw groundwater source *Escherichia coli* ("*E. coli*") samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result and failed to provide public notice of the failure to collect a raw groundwater source *E. coli* sample from each active source within 24 hours of being notified of a distribution total coliform-positive result [30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)].

4. Failed to provide public notices of the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director ("ED") and failed to provide public notification regarding the failure to collect at least five routine distribution samples the month following a total coliform-positive result for the month of April 2011 [30 TEX. ADMIN. CODE § 290.122(c)(2)(A)].

5. Failed to submit DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].

6. Failed to provide the results of triennial Stage 1 disinfectant by-product sampling and synthetic organic chemical ("SOC") contaminant sampling to the ED [30 TEX. ADMIN. CODE §§ 290.107(e) and 290.113(e)].

7. Failed to provide the results of annual nitrate and volatile organic chemical contaminant sampling to the ED [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e)].

8. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the ED by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is

correct and consistent with compliance monitoring data. Specifically, Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did Respondent submit the CCR or the required certification to the ED for the years 2010 and 2011 [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

9. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

10. Failed to collect at least five routine distribution samples the month following a total coliform-positive result and failed to provide public notice of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

a. Within 10 days:

i. Begin complying with applicable coliform monitoring requirements, by collecting all routine, repeat and increased coliform samples when required, by collecting one raw groundwater source *E. coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility.

b. Within 30 days:

i. Ensure that all delinquent drinking water chemical analysis results are reported to the ED or demonstrate that a compliance schedule has been established;

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 ED within ten days of ED request or of their receipt by the Facility, whichever is later;

iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs; and

iv. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2012 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers.

c. Within 45 days:

i. Submit written certification demonstrating compliance with Ordering Provisions a.ii., b.i., b.ii., b.iii., and b.iv.; and

ii. Submit to the ED a copy of the CCR provided to customers of the Facility and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data.

d. Within 60 days, submit written certification demonstrating compliance with Ordering Provision c.ii.

e. Within 90 days, begin submitting DLQORs to the ED each quarter, by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters compliant reporting.

f. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.i.

g. Within 285 days, submit written certification demonstrating compliance with Ordering Provision e.

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: Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A

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Mark Stewart
RN101194447
Docket No. 2013-0407-PWS-E

Respondent: Mark Stewart, System Manager, 957 Livesay Drive, Cortez, Colorado 81321
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

DATES					
Assigned	17-Dec-2012				
PCW	21-Feb-2013	Screening	5-Apr-2013	EPA Due	30-Sep-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Mark Stewart		
Reg. Ent. Ref. No.	RN101194447		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46302	No. of Violations	4
Docket No.	2013-0407-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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* **$750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 80.0% Enhancement — *Subtotals 2, 3, & 7* **$600**

Notes: Enhancement for six NOVs with the same/similar violations and two default orders.

Culpability — No — 0.0% Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$0**

Economic Benefit — 0.0% Enhancement* — *Subtotal 6* **$0**

Total EB Amounts: $706
Approx. Cost of Compliance: $1,762
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$1,350**

OTHER FACTORS AS JUSTICE MAY REQUIRE — 19.1% — *Adjustment* **$258**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with Violation Nos. 1, 2, and 4.

Final Penalty Amount **$1,608**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$1,608**

DEFERRAL — 0.0% Reduction — *Adjustment* **$0**

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$1,608**

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 2 (September 2002)*
Case ID No.	46302		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

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 (*number of NOVs meeting criteria*)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 80%

>> 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 six NOVs with the same/similar violations and two default orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 80%

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 2 (September 2002)*
Case ID No.	46302		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §290.122(c)(2)(A)

Violation Description Failed to provide public notices of the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director for the first and second quarters of 2011 and failed to provide public notification regarding the failure to collect at least five routine distribution samples the month following a total coliform-positive result for the month of April 2011.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events: 3 — 2 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semi-annual	
annually	
single event	x

Violation Base Penalty $300

Three single 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 $85 — **Violation Final Penalty Total** $643

This violation Final Assessed Penalty (adjusted for limits) $643

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)	$100	26-Nov-2012	1-Oct-2013	0.85	$4		$4

Notes for DELAYED costs: The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date originally documenting the violations. The final date is 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]	$75	10-Apr-2011	9-Oct-2011	1.42	$5	$75	$80
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs: The avoided cost includes the estimated amount to provide public notification ($25) of the failure to submit DLQORs and conduct increased monitoring, calculated for the period when public notifications were not provided.

Approx. Cost of Compliance $175

TOTAL $85

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 2 (September 2002)*
Case ID No.	46302		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)

Violation Description Failed to collect raw groundwater source Escherichia coli samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the month of March 2011 and failed to provide public notice of the failure to collect a raw groundwater source Escherichia coli sample from each active source within 24 hours of being notified of a distribution total coliform-positive result for the month of March 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	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to perform raw groundwater source monitoring and provide public notice could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events: 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semi-annual	
annual	
single event	

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 $101 — **Violation Final Penalty Total** $536

This violation Final Assessed Penalty (adjusted for limits) $536

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	[illegible]	$0
Record Keeping System				0.00	$0	[illegible]	$0
Training/Sampling				0.00	$0	[illegible]	$0
Remediation/Disposal				0.00	$0	[illegible]	$0
Permit Costs				0.00	$0	[illegible]	$0
Other (as needed)				0.00	$0	[illegible]	$0
Notes for DELAYED costs	The delayed costs of compliance are captured in the economic benefit for Violation No. 1 of the Revision 2 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]	$75	31-Mar-2011	1-Apr-2011	0.00	$0	$75	$75
Other (as needed)	$25	1-Apr-2011	30-Jun-2011	1.16	$1	$25	$26
Notes for AVOIDED costs	The one-time avoided cost includes the estimated amount to conduct triggered source monitoring for the drinking water at the Facility ($25 per sample x 3 samples), calculated for the 24-hour period after the coliform-positive result and to provide public notification of the failure to sample, calculated for the period when public notification was not provided.						

Approx. Cost of Compliance $100

TOTAL $101

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 2 (September 2002)*
Case ID No.	46302		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.113(e)

Violation Description Failed to provide the results of triennial Stage 1 disinfectant by-product sampling to the Executive Director. Specifically, the Respondent failed to provide Stage 1 disinfectant by-product monitoring results for the monitoring period from January 1, 2007 through December 31, 2009.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events: 1 — 1095 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semi-annual	
annual	
single event	x

Violation Base Penalty $100

One single 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 $100

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $443 — **Violation Final Penalty Total** $214

This violation Final Assessed Penalty (adjusted for limits) $214

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings	$1,319	31-Dec-2008	1-Oct-2013	4.75	$21	$418	$439
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)	$100	26-Nov-2012	1-Oct-2013	0.85	$4		$4

Notes for DELAYED costs: The delayed cost includes the estimated amount to pay any outstanding lab fees ($628 for Stage 1 disinfectant by-products, $366 for volatile organic chemicals, $25 for nitrates, $300 for synthetic organic chemicals) so that the lab will release all drinking water chemical analysis results. The date required is the last date of the first monitoring period for which results were not provided, and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to 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, calculated from the date of the record review originally documenting the violation 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 $1,419

TOTAL $443

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 2 (September 2002)*
Case ID No.	46302		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 4

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

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the Executive Director for the year 2010.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
OR Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	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: 1 — 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semi-annual	
annual	x
single event	

Violation Base Penalty $100

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 $100

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $77 — **Violation Final Penalty Total** $214

This violation Final Assessed Penalty (adjusted for limits) $214

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$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]	$68	1-Jul-2011	5-Apr-2013	2.68	$9	$68	$77
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the estimated amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply ($0.50 x 36 connections plus a flat fee of $50 x 1 year), calculated from the date the CCRs were due to the date of screening.						

Approx. Cost of Compliance $68

TOTAL $77

Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) — *PCW Revision August 3, 2011*

TCEQ

DATES					
Assigned	17-Dec-2012				
PCW	21-Feb-2013	Screening	5-Apr-2013	EPA Due	30-Sep-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Mark Stewart		
Reg. Ent. Ref. No.	RN101194447		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46302	No. of Violations	9
Docket No.	2013-0407-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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*	$1,400
ADJUSTMENTS (+/-) TO SUBTOTAL 1		

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

Compliance History	80.0% Enhancement	*Subtotals 2, 3, & 7*	$1,120

Notes: Enhancement for six NOVs with the same/similar violations and two default orders.

Culpability No	0.0% Enhancement	*Subtotal 4*	$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	*Subtotal 5*	$0
Economic Benefit	0.0% Enhancement* *Subtotal 6*	$0

Total EB Amounts $738
Approx. Cost of Compliance $848
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7	*Final Subtotal*	$2,520
OTHER FACTORS AS JUSTICE MAY REQUIRE 29.1%	*Adjustment*	$733

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with Violation Nos. 1, 2, 4, 5, 7, 8, and 9.

Final Penalty Amount	$3,253
STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*	$3,253
DEFERRAL 0.0% Reduction *Adjustment*	$0

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	$3,253

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	PCW
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

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 (*number of NOVs meeting criteria*)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 80%

>> 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 six NOVs with the same/similar violations and two default orders.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 80%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 80%

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the maximum contaminant level ("MCL") for total coliform for the month of September 2012 and failed to provide public notification regarding the MCL exceedance for the month of September 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual		x	
	Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: As a result of the exceedance, persons served by the Facility have been exposed to significant amounts of contaminants, which do not exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events 1 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semi-annual	
annual	
single event	

Violation Base Penalty $150

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 $150

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $125 — **Violation Final Penalty Total** $349

This violation Final Assessed Penalty (adjusted for limits) $349

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$0
Notes for DELAYED costs	The delayed cost are captured in the economic benefit worksheet for Violation No. 1. of the Revision 2 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]	$100	1-Sep-2012	30-Sep-2012	0.00	$0	$100	$100
Other (as needed)	$25	1-Oct-2012	30-Oct-2012	0.00	$0	$25	$25
Notes for AVOIDED costs	The avoided costs include the estimated amount for additional sampling and oversight that could have prevented the exceedance, calculated for the month in which the exceedance occurred and the amount to provide public notification ($25) of the exceedance, calculated for the period when public notification was due.						

Approx. Cost of Compliance $125

TOTAL $125

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)

Violation Description Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample for the month of September 2012 and failed to provide public notification regarding the failure to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample for the month of September 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Failure to perform repeat coliform monitoring and provide public notice could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events 1 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $150

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 $150

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $126 — **Violation Final Penalty Total** $349

This violation Final Assessed Penalty (adjusted for limits) $349

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$0

Notes for DELAYED costs The delayed costs are captured in the economic benefit of Violation No. 1. of the Revision 2 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]	$100	13-Sep-2012	14-Sep-2012	0.00	$0	$100	$100
Other (as needed)	$25	14-Sep-2012	14-Dec-2012	1.17	$1	$25	$26

Notes for AVOIDED costs The avoided costs include the estimated amount to collect a total of four repeat samples ($25 per sample), calculated for the 24-hour period after the coliform-positive result and the estimated amount to provide public notification ($25 per notice) of the failure to sample, calculated for the period when public notification was not provided.

Approx. Cost of Compliance $125

TOTAL $126

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.107(e) and 290.113(e)

Violation Description Failed to provide the results of the triennial synthetic organic chemical ("SOC") contaminants and Stage 1 disinfectant by-product sampling to the Executive Director. Specifically, the Respondent failed to provide SOC levels for the monitoring period from January 1, 2009 through December 31, 2011 and failed to provide Stage 1 disinfectant by-product monitoring results for the monitoring period from January 1, 2010 through December 31, 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes: 100% of the rule requirement was not met

Adjustment $950

$50

Violation Events

Number of Violation Events: 2 — 1094 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

Two single 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 $100

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $0

Violation Final Penalty Total $232

This violation Final Assessed Penalty (adjusted for limits) $232

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$0
Notes for DELAYED costs	The delayed costs of compliance are captured in the economic benefit for Violation No. 3. of the Revision 2 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

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 4

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

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Facility failed to submit DLQORs from the third quarter of 2011 through the fourth quarter of 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes: 100% of the rule requirement was not met

Adjustment $950

$50

Violation Events

Number of Violation Events: 6 — 540 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semi-annual	
annual	
single event	

Violation Base Penalty $300

Six 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 $154 — **Violation Final Penalty Total** $697

This violation Final Assessed Penalty (adjusted for limits) $697

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	1.5

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System	$45	25-Feb-2013	1-Oct-2013	0.60	$1		$1
Training/Sampling	$100	25-Feb-2013	1-Oct-2013	0.60	$3		$3
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$0
Notes for DELAYED costs	The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all DLQORs are submitted to the TCEQ in a timely manner, calculated from the record review date documenting the violation 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]	$135	10-Oct-2011	10-Jan-2013	2.17	$15	$135	$150
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the estimated amount to timely prepare and submit DLQORs ($22.50 per DLQOR) of the failure to submit DLQORs, calculated from the day the report was due for the third quarter of 2011 to the day the report was due for the fourth quarter of 2012.						

Approx. Cost of Compliance $280

TOTAL $154

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description Failed to collect raw groundwater source Escherichia coli samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the month of September 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Failure to perform raw groundwater source monitoring could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events: 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semi-annual	
annual	
single event	

Violation Base Penalty $150

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 $150

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $75

Violation Final Penalty Total $349

This violation Final Assessed Penalty (adjusted for limits) $349

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$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]	$75	13-Sep-2012	14-Sep-2012	0.00	$0	$75	$75
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The one-time avoided cost includes the estimated amount to conduct triggered source monitoring ($25 per sample x 3 samples), calculated for the 24-hour period after the coliform-positive result.						

Approx. Cost of Compliance $75

TOTAL $75

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 290.106(e) and 290.107(e)

Violation Description Failed to provide the results of annual nitrate and volatile organic chemical contaminant sampling to the Executive Director for the 2011 and 2012 monitoring periods.

Base Penalty $1,000

>>Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $950

$50

Violation Events

Number of Violation Events 4 | 730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannually	
annually	x
single event	

Violation Base Penalty $200

Four annual events are recommended (one for each missing report).

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 effort criteria for this violation.

Violation Subtotal $200

Economic Benefit (EB) for this Violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $465

This violation Final Assessed Penalty (adjusted for limits) $465

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Reg. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No comma 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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$0

Notes for DELAYED costs The delayed costs of compliance are captured in the economic benefit for Violation No. 3. of the Revision 2 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

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	**PCW**
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the month of August 2012 and failed to provide public notice of the failure to sample for the month of August 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Failure to collect coliform monitoring samples and provide public notice could expose persons served by the Facility to undetected contaminants, which would exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $150

One monthly event is recommeded.

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 $150

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $53 — **Violation Final Penalty Total** $349

This violation Final Assessed Penalty (adjusted for limits) $349

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 7

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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$0
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-Aug-2012	31-Aug-2012	1.00	$1	$25	$26
Other (as needed)	$25	1-Sep-2012	30-Nov-2012	1.16	$1	$25	$26

Notes for DELAYED costs The delayed costs are captured in the economic benefit of Violation No. 1 of the Revision 2 PCW.

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

Approx. Cost of Compliance $50

TOTAL $53

Screening Date 5-Apr-2013 **Docket No.** 2013-0407-PWS-E **PCW**

Respondent Mark Stewart *Policy Revision 3 (September 2011)*

Case ID No. 46302 *PCW Revision August 3, 2011*

Reg. Ent. Reference No. RN101194447

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)

Violation Description Failed to collect at least five routine distribution samples the month following a total coliform-positive result for the month of October 2012 and failed to provide public notice of the failure to sample for the month of October 2012. Specifically, the Respondent only submitted one of the five required distribution samples in the month of October 2012 and did not post a public notice of the failure to sample for the month of October 2012.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Failure to conduct increased sampling and post public notice could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semi-annual	
annual	
single event	

Violation Base Penalty $150

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 $150

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $131 **Violation Final Penalty Total** $349

This violation Final Assessed Penalty (adjusted for limits) $349

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Reg. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$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]	$100	1-Oct-2012	31-Oct-2012	1.00	$5	$100	$105
Other (as needed)	$25	1-Nov-2012	31-Jan-2013	1.17	$1	$25	$26

Notes for AVOIDED costs The avoided cost includes the estimated amount necessary to conduct routine coliform sampling ($25 per sample), and provide public notice for the failure to collect at least five routine distribution samples samples ($25 per notice), calculated for the month sampling was not conducted and notice was required.

Approx. Cost of Compliance $125

TOTAL $131

Screening Date	5-Apr-2013	**Docket No.** 2013-0407-PWS-E	PCW
Respondent	Mark Stewart		*Policy Revision 3 (September 2011)*
Case ID No.	46302		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN101194447		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 9

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

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the Executive Director for the year 2011.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
OR Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $950

$50

Violation Events

Number of Violation Events: 1 — 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $50

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 $50

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $74 — **Violation Final Penalty Total** $116

This violation Final Assessed Penalty (adjusted for limits) $116

Economic Benefit Worksheet

Respondent Mark Stewart
Case ID No. 46302
Req. Ent. Reference No. RN101194447
Media Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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		$0
Record Keeping System				0.00	$0		$0
Training/Sampling				0.00	$0		$0
Remediation/Disposal				0.00	$0		$0
Permit Costs				0.00	$0		$0
Other (as needed)				0.00	$0		$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]	$68	1-Jul-2012	5-Apr-2013	1.68	$6	$68	$74
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided costs include the estimated amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply ($0.50 x 36 connections plus a flat fee of $50 x 1 year), calculated from the date the CCRs were due to the date of screening.						

Approx. Cost of Compliance $68 **TOTAL** $74

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603019183, RN101194447, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN603019183, Mark Stewart	**Classification:** NOT APPLICABLE	**Rating:** N/A
Regulated Entity:	RN101194447, GREEN HILLS SUBDIVISION	**Classification:** NOT APPLICABLE	**Rating:** N/A
Complexity Points:	N/A	**Repeat Violator:** N/A	
CH Group:	14 - Other		
Location:	563 COUNTY ROAD 4115, CASS COUNTY, TEXAS		
TCEQ Region:	REGION 05 - TYLER		

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0340019

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: April 05, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 05, 2008 to April 05, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Epi Villarreal **Phone:** (361) 825-3425

Site and Owner/Operator History:

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 for #2, who is the current owner/operator?	N/A
4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 04/10/2009 ADMINORDER 2007-1805-PWS-E (Findings Order-Default After Hearing/Trial)

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to make the Facility's operating records accessible for review during inspections.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)
Description: Failure to employ an operator with a Class "D" or higher license as required of groundwater systems serving no more than 250 connections.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)
Description: Failure to provide a pressure tank capacity of 50 gallons per connection as required for community water systems with fewer than 50 connections without ground storage.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to complete a customer service inspection certification prior to providing continuous water service to

new construction, on any existing service either when cross-connections or other potential contaminants hazards exist.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to provide a flow measuring device for each well to measure the production yields and provide for the accumulation of water production data.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)

Description: Failure to maintain a free chorine residual of at least 0.2 mg/L throughout the distribution system.
Classification: Major
Citation: 2A TWC Chapter 7, SubChapter A 7.101
Rqmt Prov:Order Provision No. 2 ORDER

Description: Failure to comply with a Commission Order- Water Code 2.101. A person may not cause, suffer, allow or permit a violation of a statute within the commission's jurisdiction or a rule adopted or an order or permit issued under such a statute.

2 Effective Date: 10/24/2009 ADMINORDER 2008-1257-PWS-E (Findings Order-Default)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)

Description: TCR MCL Violation 10/2007 System exceeded a Maximum Contaminant Level (MCL) Violation.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring 08/2007 Failure to collect any repeat samples following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring 10/2007 Failure to collect any repeat samples following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)

Description: TCR PN for Repeat Monitoring Volation 08/2007 Failure to post public notice for not collecting any repeat samples following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)

Description: TCR PN for Repeat Monitoring Volation 10/2007 Failure to post public notice for not collecting any repeat samples following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring 09/2007 Failure to collect all 5 distribution samples following a coliform found month.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring 11/2007 Failure to collect all 5 distribution samples following a coliform found month.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)

Description: TCR PN Increase Monitoring 09/2007 Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)

Description: TCR PN Increase Monitoring 11/2007 Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)

Description: TCR PN MCL Violation 10/2007 System failed to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 October 23, 2012 (1037244)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 11/06/2012 (1060032) CN603019183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 08/2012 - Failure to collect any routine monitoring sample(s).

2 Date: 01/09/2013 (1060032) CN603019183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source Monitoring Violation 09/2012 - Failure to collect any triggered source monitoring sample(s) following a coliform found result for 3 sources.

3 Date: 01/10/2013 (1060032) CN603019183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 10/2012 - Failure to collect all of the 5 distribution samples following a coliform found month.

4 Date: 01/22/2013 (1060032) CN603019183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: AUG/2012 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2012.

5 Date: 01/29/2013 (1060032) CN603019183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: SEPT/2012 TCR Repeat Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 09/2012.

6 Date: 02/21/2013 (1060032) CN603019183
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: OCT/2012 TCR Increase Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 10/2012.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
MARK STEWART	§	
RN101194447	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2013-0407-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 Mark Stewart ("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 he 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 563 County Road 4115 in Cass County, Texas (the "Facility") that has approximately 36 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on November 26, 2012, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") for total coliform for the month of September 2012 and failed to provide public notification regarding the MCL exceedance for the month of September 2012.

3. During record reviews conducted on November 26, 2012 and February 25, 2013, TCEQ staff documented that the Respondent did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample for the month of September 2012 and did not provide public notification regarding the failure to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample for the month of September 2012.

4. During record reviews conducted on November 26, 2012 and February 25, 2013, TCEQ staff documented that the Respondent did not collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the months of March 2011 and September 2012 and failed to provide public notice of the failure to collect a raw groundwater source *Escherichia coli* sample from each active source within 24 hours of being notified of a distribution total coliform-positive result.

5. During a record review conducted on November 26, 2012, TCEQ staff documented that the Respondent did not provide public notices of the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director and did not provide public notification regarding the failure to collect at least five routine distribution samples the month following a total coliform-positive result for the month of April 2011.

6. During a record review conducted on February 25, 2013, TCEQ staff documented that the Respondent did not submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter from the third quarter of 2011 through the fourth quarter of 2012.

7. During record reviews conducted on November 26, 2012 and February 25, 2013, TCEQ staff documented that the Respondent did not provide the results of triennial synthetic organic chemical ("SOC") contaminants monitoring period from January 1, 2009 through December 31, 2011 and did not provide Stage 1 disinfectant by-product monitoring results for the monitoring periods from January 1, 2007 through December 31, 2009 and January 1, 2010 through December 31, 2012.

8. During a record review conducted on February 25, 2013, TCEQ staff documented that the Respondent did not provide the results of annual nitrate and volatile organic chemical contaminants to the Executive Director for 2011 and 2012 monitoring periods.

9. During a record review conducted on February 25, 2013, TCEQ staff documented that the Respondent did not to mail or directly deliver one copy of the Consumer Confidence

Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for the years 2010 and 2011.

10. During a record review conducted on February 25, 2013, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the month of August 2012 and failed to provide public notice of the failure to sample for the month of August 2012.

11. During a record review conducted on February 25, 2013, TCEQ staff documented that the Respondent only submitted one of five routine distribution samples the month following a total coliform-positive result for the month of October 2012 and failed to provide public notice of the failure to sample for the month of October 2012.

12. The Respondent received notices of the violations on December 17, 2012 and March 11, 2013.

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 for total coliform, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).

3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide public notification regarding the failure to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).

4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result and failed to provide public notice of the failure to collect a raw groundwater source *Escherichia coli* sample from each active source within 24 hours of being notified of a distribution total coliform-positive result, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide public notices of the failure to submit a DLQOR to the Executive Director and failed to provide public notification regarding the failure to collect at least five routine distribution samples the month following a total coliform-positive result for the month of April 2011, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).

6. As evidenced by Findings of Fact No. 6, the Respondent failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).

7. As evidenced by Findings of Fact No. 7, the Respondent failed to provide the results of triennial Stage 1 disinfectant by-product sampling and SOC contaminant sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.107(e) and 290.113(e).

8. As evidenced by Findings of Fact No. 8, the Respondent failed to provide the results of annual nitrate and volatile organic chemical contaminant sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e).

9. As evidenced by Findings of Fact No. 9, the Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the Executive Director for the years 2010 and 2011, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).

10. As evidenced by Findings of Fact No. 10, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).

11. As evidenced by Findings of Fact No. 11, the Respondent failed to collect at least five routine distribution samples the month following a total coliform-positive result and failed to provide public notice of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).

12. 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.

13. An administrative penalty in the amount of Four Thousand Eight Hundred Sixty-One Dollars ($4,861) 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 Thirty-Six Dollars ($136) of the administrative penalty. The remaining amount of Four Thousand Seven Hundred Twenty-Five Dollars ($4,725) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Thirty-Five Dollars ($135) 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 Four Thousand Eight Hundred Sixty-One Dollars ($4,861) as set forth in Section II, Paragraph 13 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: Mark Stewart, Docket No. 2013-0407-PWS-E" to:

   Financial Administration Division, Revenue Operations 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. Within 10 days after the effective date of this Agreed Order:

      i. Begin complying with applicable coliform monitoring requirements, by collecting all routine, repeat and increased coliform samples when required, by collecting one raw groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected 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 consecutive months of compliant monitoring and reporting; and

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.

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 §§ 290.106 (Inorganic Contaminants); 290.107 (Organic Contaminants); and 290.113 (Disinfection Byproducts);

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 §§ 290.106 (Inorganic Contaminants); 290.107 (Organic Contaminants); and 290.113 (Disinfection Byproducts);

iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110; and

iv. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2012 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274.

c. Within 45 days after the effective date of this Agreed Order:

i. Submit written certification as described in Ordering Provision No. 2.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.ii., 2.b.i., 2.b.ii., 2.b.iii., and 2.b.iv.; and

ii. Submit to the Executive Director a copy of the CCR provided to customers of the Facility and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, as required

by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

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

d. Within 60 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.ii.;

e. Within 90 days after the effective date of this Agreed Order, begin submitting DLQORs to the Executive Director each quarter, by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters compliant reporting. DLQORs shall be submitted to:

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

f. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.

g. Within 285 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

For the Executive Director

11/1/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Mark Stewart. I am authorized to agree to the attached Agreed Order on behalf of Mark Steward dba Green Hills Subdivision, 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, Mark Steward dba Green Hills Subdivision 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.

M Stewart
Signature

7/19/13
Date

Mark Stewart
Name (Printed or typed)
Authorized Representative of
Mark Stewart

System Manager for
Title Dona B. Stewart,
owner Stewart Water Works
Green Hills

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