

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44429  
TANK WORKS, INC. D/B/A BRAZOS BEND HOME & RANCH  
RN101176592  
Docket No. 2012-1286-PWS-E

**Order Type:**

Default Order

**Media:**

PWS

**Small Business:**

Yes

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

22930 Farm-to-Market Road 1462, Fort Bend County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** February 1, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,127

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$1,127

**Compliance History Classifications:**

Person/CN –Average  
Site/RN –Average

**Major Source:** No

**Statutory Limit Adjustment:** None

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

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** May 29, 2012

**Date(s) of NOV(s):** November 17, 2011; February 16, 2012; May 7, 2012

**Date(s) of NOE(s):** June 3, 2012

**Violation Information**

1. Failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director for the reporting period from January 1, 2009, through December 31, 2011 [30 TEX. ADMIN. CODE § 290.106(e)].
2. Failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director for the 2011 monitoring period [30 TEX. ADMIN. CODE § 290.106(e)].
3. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample, and failed to provide public notification regarding the failure to conduct repeat sampling [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)].
4. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result [30 Tex. Admin. Code § 290.109(c)(2)(F)].
5. Failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director for the 2007 through 2010 monitoring periods [30 Tex. Admin. Code § 290.106(e)].
6. Failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director for the reporting period from January 1, 2006, through December 31, 2008 [30 TEX. ADMIN. CODE § 290.106(e)].
7. Failed to pay PHS fees for TCEQ FA Account No. 90790184 for Fiscal Years 2010 through 2012 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 10 days:
  - a. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility; and
  - b. Begin complying with applicable coliform monitoring requirements by collecting required coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision shall be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
2. Within 30 days:
  - a. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established;
  - b. 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 10 days of Executive Director request or of their receipt by the Facility, whichever is later; and
  - c. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 90790184.
3. Submit written certification to demonstrate compliance:
  - a. Within 30 days for Technical Requirement No. 1.a.;
  - b. Within 45 days for Technical Requirement No. 2; and
  - c. Within 195 days for Technical Requirement No. 1.b.

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44429  
TANK WORKS, INC. D/B/A BRAZOS BEND HOME & RANCH  
RN101176592  
Docket No. 2012-1286-PWS-E**

**Litigation Information**

**Date Petition(s) Filed:** November 15, 2012  
**Date Green Card(s) Signed:** November 17, 2012  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Ryan Rutledge, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Scott Humphrey, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Abigail Lindsey, Enforcement Division, (512) 239-2576  
**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, (713) 767-3500  
**Respondent:** Noor Ali, President, Tank Works, Inc., 22930 Farm-to-Market Road 1462,  
Needville, Texas 77461  
**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	18-Jun-2012			
	<b>PCW</b>	5-Oct-2012	<b>Screening</b>	26-Jun-2012	<b>EPA Due</b> 31-Mar-2012

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch				
<b>Reg. Ent. Ref. No.</b>	RN101176592				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44429	<b>No. of Violations</b>	4
<b>Docket No.</b>	2012-1286-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Abigail Lindsey
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **19.0%** Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for three NOV's with same/similar violations and two NOV's with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6**

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **11.8%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance for Violation Nos. 3 and 4.

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **0.0%** Reduction **Adjustment**

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

Notes: Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 26-Jun-2012      **Docket No.** 2012-1286-PWS-E  
**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Abigail Lindsey

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 19%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

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

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 19%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 19%

<b>Screening Date</b>	26-Jun-2012	<b>Docket No.</b>	2012-1286-PWS-E	<b>PCW</b>
<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44429			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN101176592			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Abigail Lindsey			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.106(e)

**Violation Description**

Failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director. Specifically, the Respondent failed to provide mineral monitoring results for the reporting period from January 1, 2009 through December 31, 2011.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> **Programmatic Matrix**

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

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

**Notes for DELAYED costs**   The delayed cost for this violation is associated with the economic benefit for Violation No. 1 in 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  

**TOTAL**

<b>Screening Date</b>	26-Jun-2012	<b>Docket No.</b>	2012-1286-PWS-E	<b>PCW</b>
<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44429			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN101176592			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Abigail Lindsey			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

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

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

**Notes for DELAYED costs**   The delayed cost for this violation is associated with the economic benefit for Violation No. 1 in 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**  

**TOTAL**

**Screening Date** 26-Jun-2012 **Docket No.** 2012-1286-PWS-E **PCW**  
**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch *Policy Revision 3 (September 2011)*  
**Case ID No.** 44429 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN101176592  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Abigail Lindsey

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)  
**Violation Description** Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to conduct repeat sampling. Specifically, the Respondent collected three out of the four required repeat distribution coliform samples and failed to provide public notification regarding the failure to sample for the month of September 2011.

**Base Penalty** \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Failure to perform repeat coliform monitoring and provide public notice may 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 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** \$30 **Violation Final Penalty Total** \$200

**This violation Final Assessed Penalty (adjusted for limits)** \$200

## Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	4-Oct-2011	5-Oct-2011	0.00	\$0	\$25	\$25
Other (as needed)	\$5	4-Oct-2011	31-Dec-2011	1.16	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a set of repeat samples (\$25 per sample x 1 missed sample) and the estimated amount to provide public notification (\$5 per notice), calculated for the 24-hour period after the coliform-positive result and the period public notice should have been provided.

Approx. Cost of Compliance \$30

**TOTAL** \$30

<b>Screening Date</b>	26-Jun-2012	<b>Docket No.</b>	2012-1286-PWS-E	<b>PCW</b>
<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44429			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN101176592			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Abigail Lindsey			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 4

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

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

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$25	1-Mar-2012	31-Mar-2012	1.00	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to conduct increased coliform sampling, (\$25 per sample x 1 missed sample), calculated for the month the increased monitoring was required.

Approx. Cost of Compliance \$25

**TOTAL** \$26



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	18-Jun-2012			
	<b>PCW</b>	5-Oct-2012	<b>Screening</b>	26-Jun-2012	<b>EPA Due</b> 31-Mar-2009

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch				
<b>Reg. Ent. Ref. No.</b>	RN101176592				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44429	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-1286-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Abigail Lindsey
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **19.0%** Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for three NOVs with same/similar violations and two NOVs with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6**

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes:

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY**

<b>Screening Date</b>	26-Jun-2012	<b>Docket No.</b>	2012-1286-PWS-E	<b>PCW</b>
<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	44429			PCW Revision October 30, 2008
<b>Reg. Ent. Reference No.</b>	RN101176592			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Abigail Lindsey			

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 19%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

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

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 19%

<b>Screening Date</b>	26-Jun-2012	<b>Docket No.</b>	2012-1286-PWS-E	<b>PCW</b>
<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	44429			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101176592			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Abigail Lindsey			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.106(e)

**Violation Description**

Failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director. Specifically, the Respondent failed to provide nitrate/nitrite monitoring results for the 2007 through 2010 reporting periods.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> **Programmatic Matrix**

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

**Percent**

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

Four annual events are recommended.

**Good Faith Efforts to Comply**

Reduction

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

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 1

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)	\$435	31-Dec-2007	1-Jan-2013	5.01	\$7	\$145	\$153
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees 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.

### 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

**TOTAL**

<b>Screening Date</b>	26-Jun-2012	<b>Docket No.</b>	2012-1286-PWS-E	<b>PCW</b>
<b>Respondent</b>	Tank Works, Inc. dba Brazos Bend Home & Ranch	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	44429	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101176592			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Abigail Lindsey			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.106(e)			
<b>Violation Description</b>	Failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director. Specifically, the Respondent failed to provide mineral monitoring results for the reporting period from January 1, 2006 through December 31, 2008.			
<b>Base Penalty</b>				\$1,000

>> Environmental, Property and Human Health Matrix

<b>OR</b>	<b>Harm</b>			<b>Percent</b>	
	<b>Release</b>	Major	Moderate		Minor
	Actual				
	Potential				
				0%	

>> Programmatic Matrix

<b>Matrix Notes</b>	<b>Falsification</b>	Major	Moderate	Minor	<b>Percent</b>
		x			
					10%
100% of the rule requirement was not met.					
<b>Adjustment</b>					\$900

\$100

Violation Events

<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	1095	<b>Violation Base Penalty</b>	\$100
<i>mark only one with an x</i>	daily				
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
	single event	x			
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)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			\$100

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$0
<b>Violation Final Penalty Total</b>	\$119
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
\$119	

# Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

**Notes for DELAYED costs**   The delayed cost for this violation is associated with the economic benefit for Violation No. 1 in 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  

**TOTAL**

**Screening Date** 26-Jun-2012 **Docket No.** 2012-1286-PWS-E **PCW**  
**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch *Policy Revision 2 (September 2002)*  
**Case ID No.** 44429 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101176592  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Abigail Lindsey

**Violation Number**

**Rule Cite(s)**

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

**Violation Description**

Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 90790184 for Fiscal Years 2010 through 2012.

**Base Penalty**

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

**Adjustment**

Violation Events

Number of Violation Events

Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

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

Good Faith Efforts to Comply

Reduction

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

Notes

**Violation Subtotal**

Economic Benefit (EB) for this violation

Statutory Limit Test

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Tank Works, Inc. dba Brazos Bend Home & Ranch  
**Case ID No.** 44429  
**Reg. Ent. Reference No.** RN101176592  
**Media Violation No.** Public Water Supply  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

### Avoided Costs

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

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

Approx. Cost of Compliance

**TOTAL**

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602671208 Tank Works, Inc. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN101176592 Brazos Bend Home & Ranch Classification: AVERAGE Site Rating: 3.01  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0790184  
PETROLEUM STORAGE TANK REGISTRATION 46542  
Location: 22930 FARM-TO-MARKET ROAD 1462, FORT BEND COUNTY, TEXAS  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: June 26, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 26, 2007 to June 26, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Abigail Lindsey Phone: (512) 239-2576

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A

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

C. Chronic excessive emissions events.  
N/A

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

- 1 05/30/2012 (1008559)
- 2 05/30/2012 (1008693)
- 3 06/13/2012 (1008769)
- 4 06/18/2008 (637608)
- 5 12/09/2009 (781460)

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

**Date: 06/10/2008 (637608) CN602671208**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(1)

Description: Failure to meet pressure tank capacity.

**Date: 11/03/2009 (781460) CN602671208**

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to provide an exterior inspection report for pressure tank.

**Date: 11/17/2011 (1008559) CN602671208**

Self Report? NO Classification: Moderate

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

Description: TCR Repeat Monitoring Violation 09/2011 - Failure to collect all repeats following a coliform found result.

**Date: 02/16/2012 (1008559) CN602671208**

Self Report? NO Classification: Moderate

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

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: SEP/2011 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 09/2011.

**Date: 05/07/2012 (1008693) CN602671208**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 03/2012 - Failure to collect all of the 5 distribution samples following a coliform found month.

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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TANK WORKS, INC. D/B/A  
BRAZOS BEND HOME &  
RANCH;  
RN101176592**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2012-1286-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Tank Works, Inc. d/b/a Brazos Bend Home & Ranch ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at 22930 Farm-to-Market Road 1462 in Fort Bend County, Texas (the "Facility"). The Facility has one service connection and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on May 29, 2012, a TCEQ Central Office investigator documented that Respondent violated the following requirements:
  - a. Failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director for the reporting period from January 1, 2009, through December 31, 2011;
  - b. Failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director for the 2011 monitoring period;
  - c. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample and failed to provide public notification regarding the failure to conduct repeat sampling. Specifically, Respondent collected three out of the four required repeat distribution coliform samples and failed to provide public notification regarding the failure to sample for the month of September 2011;
  - d. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result. Specifically, Respondent collected four out of the five required samples for the month of March 2012;
  - e. Failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director for the 2007 through 2010 monitoring periods;

- f. Failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director for the reporting period from January 1, 2006, through December 31, 2008; and
  - g. Failed to pay Public Health Service ("PHS") fees for TCEQ Financial Administration ("FA") Account No. 90790184 for Fiscal Years 2010 through 2012.
3. Respondent received notice of the violations on or about June 8, 2012.
  4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tank Works, Inc. d/b/a Brazos Bend Home & Ranch" (the "EDPRP") in the TCEQ Chief Clerk's office on November 15, 2012.
  5. By letter dated November 15, 2012, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on November 17, 2012, as evidenced by the signature on the card.
  6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director for the reporting period from January 1, 2009, through December 31, 2011, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director for the 2011 monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample, and failed to provide public notification regarding the failure to conduct repeat sampling, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to provide the results of annual nitrate/nitrite sampling to the TCEQ's Executive Director for the 2007 through 2010 monitoring periods, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to provide the results for triennial sampling for minerals to the TCEQ's Executive Director for the reporting period from January 1, 2006, through December 31, 2008, in violation of 30 TEX. ADMIN. CODE § 290.106(e).

8. As evidenced by Finding of Fact No. 2.g., Respondent failed to pay PHS fees for TCEQ FA Account No. 90790184 for Fiscal Years 2010 through 2012, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
9. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104 (b)(1).
10. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
11. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
12. An administrative penalty in the amount of one thousand one hundred twenty-seven dollars (\$1,127.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of one thousand one hundred twenty-seven dollars (\$1,127.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Tank Works, Inc. d/b/a Brazos Bend Home & Ranch; Docket No. 2012-1286-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
- a. Within 10 days after the effective date of this Order, Respondent shall:
    - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
    - ii. Begin complying with applicable coliform monitoring requirements by collecting required coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision shall be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
  - b. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Submit written certification as described in Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.i.;
    - ii. 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);
    - iii. 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 10 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); and
    - iv. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 90790184. The payment shall be sent with the notation "Tank Works, Inc. dba Brazos Bend Home & Ranch, FA Account No. 90790184" to:
      - Financial Administration Division, Revenues Section
      - Attention: Cashier's Office, MC 214
      - Texas Commission on Environmental Quality
      - P.O. Box 13088
      - Austin, Texas 78711-3088
  - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision Nos. 3.b.ii. through 3.b.iv.
  - d. Within 195 days after the effective date of this Order, Respondent shall submit written certification, as described in Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.ii.
  - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF RYAN RUTLEDGE**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

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"My name is Ryan Rutledge. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tank Works, Inc. d/b/a Brazos Bend Home & Ranch" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 15, 2012.

The EDPRP was mailed to Respondent's last known address on November 15, 2012, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on November 17, 2012, as evidenced by the signature on the card.

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

*Ryan Rutledge*

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Ryan Rutledge, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 2nd day of January A.D. 2013.

*Margaret Jackson*  
\_\_\_\_\_  
Notary Signature

