

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45251
TIMBERLANE WATER SYSTEM, INC.
RN101182624
Docket No. 2012-2123-PWS-E

Order Type:

Default Order

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

The end of FM 2928, Hemphill, Sabine 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: May 24, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,140

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,140

Compliance History Classifications:

Person/CN –Unclassified
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

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

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 24, 2012

Date(s) of NOV(s): July 6, 2012; July 23, 2012

Date(s) of NOE(s): October 8, 2012

Violation Information

1. Failed to submit routine Disinfectant Level Quarterly Operating Reports (“DLQORs”) to the Executive Director 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)].
2. Failed to provide results of quarterly disinfectant by-product (“DBP”) monitoring to the Executive Director for the first and second quarters of 2012 [30 TEX. ADMIN. CODE § 290.113(e)].
3. Failed to collect at least one raw groundwater source *E. coli* sample from the one active source within 24 hours of being notified of a distribution total coliform-positive result, and failed to provide public notice of the failure [30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)].
4. Failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
5. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result of a routine distribution coliform sample, and failed to provide public notice of the failure [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].
6. Failed to provide the results of synthetic organic contaminant monitoring to the Executive Director [30 TEX. ADMIN. CODE § 290.107(e)].
7. Failed to provide the results of quarterly DBP monitoring to the Executive Director for the second quarter of 2011 [30 TEX. ADMIN. CODE § 290.113(e)].

Corrective Actions/Technical Requirements

Technical Requirements:

1. Within 30 days:
 - a. Update the Facility’s operational guidance and conduct training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORS (violation no. 1);
 - b. Ensure that delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established (violations nos. 2, 4, 6, and 7);
 - c. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility (violation nos. 3 and 5);
 - d. 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 whichever is later (violation nos. 2, 4, 6, and 7); and
 - e. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and one *E. coli* sample from each groundwater source in use at the time of the distribution coliform-positive sample was collected, and providing water that meets that provisions regarding microbial contaminants (violation nos. 3 and 5). This provision will be satisfied upon six consecutive months of compliant monitoring.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. through 1.d.
3. Within 90 days, begin submitting DLQORS to the Executive Director each quarter by the tenth day of each month following the end of the quarter (violation no. 1). This provision will be satisfied upon two consecutive quarters of compliant reporting.
4. Within 195 days, submit written certification to demonstrate compliance with Technical Requirement Nos. 1.e. and 3.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45251
TIMBERLANE WATER SYSTEM, INC.
RN101182624
Docket No. 2012-2123-PWS-E

Litigation Information

Date Petition(s) Filed: January 29, 2013; February 22, 2013
Date Green Card(s) Signed: Unsuccessful; February 26, 2013
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jim Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, (361) 825-3425
TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838
Respondent: Beverly Minaldi, Director, TIMBERLANE WATER SYSTEM, INC., P.O. Box 1611,
Nederland, Texas 77627-1611; and 2912 Memphis, Nederland, Texas 77627
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	15-Oct-2012			
	PCW	18-Oct-2012	Screening	18-Oct-2012	EPA Due 30-Sep-2012

RESPONDENT/FACILITY INFORMATION

Respondent	TIMBERLANE WATER SYSTEM, INC.	
Reg. Ent. Ref. No.	RN101182624	
Facility/Site Region	10-Beaumont	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	45251	No. of Violations	6
Docket No.	2012-2123-PWS-E	Order Type	1660
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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for two NOVs with same/similar violations and one agreed order with denial.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit 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 **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with Violation Nos. 1,3, and 5.

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

Screening Date 18-Oct-2012

Docket No. 2012-2123-PWS-E

PCW

Respondent TIMBERLANE WATER SYSTEM, INC.

Policy Revision 3 (September 2011)

Case ID No. 45251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101182624

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 (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order with denial.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date	18-Oct-2012	Docket No.	2012-2123-PWS-E	PCW
Respondent	TIMBERLANE WATER SYSTEM, INC.		Policy Revision 3 (September 2011)	
Case ID No.	45251	PCW Revision August 3, 2011		
Reg. Ent. Reference No.	RN101182624			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number

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 Respondent failed to submit DLQORs for the first quarter of 2012 and the second quarter of 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 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 checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two quarterly events are recommended (one for each report).

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<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 TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	24-Sep-2012	1-Jun-2013	0.68	\$2	n/a	\$2
Training/Sampling	\$100	24-Sep-2012	1-Jun-2013	0.68	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amounts 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 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]	\$45	10-Apr-2012	10-Jul-2012	1.17	\$3	\$45	\$48
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to timely prepare and submit DLQORs (\$22.50 per DLQOR), calculated from the due date of the first DLQOR to the due date of the last DLQOR.

Approx. Cost of Compliance \$190

TOTAL \$53

Screening Date	18-Oct-2012	Docket No.	2012-2123-PWS-E	PCW
Respondent	TIMBERLANE WATER SYSTEM, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45251			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101182624			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <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	x
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	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 TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$942	30-Jun-2011	1-Jun-2013	1.92	\$6	\$121	\$127
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)	\$100	24-Sep-2012	1-Jun-2013	0.68	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release the DBPs results (\$314 x 3 samples), calculated from the last date of the first monitoring period for which results were not provided to 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 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

\$1,042

TOTAL

\$130

Screening Date 18-Oct-2012 **Docket No.** 2012-2123-PWS-E **PCW**
Respondent TIMBERLANE WATER SYSTEM, INC. *Policy Revision 3 (September 2011)*
Case ID No. 45251 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101182624
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)
Violation Description Failed to collect at least one raw groundwater source Escherichia coli ("E. coli") sample from the one active source 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. Specifically, during the month of May 2012 the Respondent did not collect the raw groundwater source E. coli sample from the one active source within 24 hours and did not provide public notice of the failure to collect the raw groundwater source E. coli sample.

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 raw groundwater source monitoring and providing 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 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 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 \$51 Violation Final Penalty Total \$253

This violation Final Assessed Penalty (adjusted for limits) \$253

Economic Benefit Worksheet

Respondent TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs The delayed costs are captured in the economic benefit worksheet associated with Violation No. 5 of the Revision 3 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]	\$25	9-May-2012	10-May-2012	0.00	\$0	\$25	\$25
Other (as needed)	\$25	1-May-2012	31-May-2012	1.00	\$1	\$25	\$26

Notes for AVOIDED costs The avoided costs include the estimated amount to collect one raw groundwater source sample for each active groundwater well (\$25 per sample x 1 source) calculated for the 24-hour period following the coliform-positive result and during the period that a public notice was required.

Approx. Cost of Compliance	\$50	TOTAL	\$51
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Screening Date	18-Oct-2012	Docket No.	2012-2123-PWS-E	PCW
Respondent	TIMBERLANE WATER SYSTEM, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45251			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101182624			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

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

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 TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	31-Dec-2011	1-Jun-2013	1.42	\$0	\$2	\$2
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed costs include the estimated amount to pay any outstanding lab fees so that the lab will release the nitrate/nitrite sample results and the Respondent can provide them to the Executive Director. The date required is the last date of the monitoring period in which nitrate/nitrite sample results were not provided and the final date is the estimated date of compliance. The other delayed cost are captured in the economic benefit worksheet associated with Violation No. 2 of the Revision 3 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	\$25	TOTAL	\$2
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Screening Date	18-Oct-2012	Docket No.	2012-2123-PWS-E	PCW
Respondent	TIMBERLANE WATER SYSTEM, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45251			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101182624			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number

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 for a routine distribution coliform sample collected during the month of May 2012 and failed to provide public notices of the failure to collect repeat distribution samples within 24 hours of being notified of a total coliform-positive sample for May 2012.

Base Penalty

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

OR

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

Failure to collect water samples for coliform analysis and provide public notice could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels that are protective of human health.

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

One monthly event is 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 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 TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
Media Public Water Supply
Violation No. 5

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)	\$100	24-Sep-2012	1-Jun-2013	0.68	\$3	n/a	\$3

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. 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]	\$100	1-May-2012	31-May-2012	1.00	\$5	\$100	\$105
Other (as needed)	\$25	1-Jun-2012	31-Aug-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 per month (\$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

\$225

TOTAL

\$135

Screening Date	18-Oct-2012	Docket No.	2012-2123-PWS-E	PCW
Respondent	TIMBERLANE WATER SYSTEM, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45251			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101182624			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	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	x	

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	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 TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
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 commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	31-Dec-2011	1-Jun-2013	1.42	\$1	\$28	\$30
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed costs include the estimated amount to pay any outstanding lab fees so that the lab will release the synthetic organic contaminant sampling results and the Respondent can provide them to the Executive Director. The date required is the last date of the monitoring period in which synthetic organic contaminant sampling results were not provided and the final date is the estimated date of compliance. The other delayed cost are captured in the economic benefit worksheet associated with Violation No. 2 of the Revision 3 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	\$300	TOTAL	\$30
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Oct-2012			
	PCW	29-Jan-2013	Screening	18-Oct-2012	EPA Due 30-Sep-2012

RESPONDENT/FACILITY INFORMATION

Respondent	TIMBERLANE WATER SYSTEM, INC.			
Reg. Ent. Ref. No.	RN101182624			
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	45251	No. of Violations	1
Docket No.	2012-2123-PWS-E	Order Type	1660
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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **30.0%** Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for two NOVs with same/similar violations and one agreed order with denial.

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 **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 18-Oct-2012 **Docket No.** 2012-2123-PWS-E
Respondent TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

PCW

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

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two NOVs with same/similar violations and one agreed order with denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date	18-Oct-2012	Docket No.	2012-2123-PWS-E	PCW
Respondent	TIMBERLANE WATER SYSTEM, INC.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	45251			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101182624			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.113(e)

Violation Description

Failed to provide the results of quarterly disinfectant by-product ("DBP") monitoring to the Executive Director for the second quarter of 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

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is 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 TIMBERLANE WATER SYSTEM, INC.
Case ID No. 45251
Reg. Ent. Reference No. RN101182624
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 costs are captured in the economic benefit worksheet associated with Violation No. 2 of the Revision 3 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

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.



Compliance History Report

PENDING Compliance History Report for CN601360050, RN101182624, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN601360050, TIMBERLANE WATER SYSTEM, INC. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101182624, TIMBERLANE WATER SYSTEM **Classification:** N/A **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: THE END OF FM 2928, SABINE COUNTY, TX

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY

REGISTRATION 2020054

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

Date Compliance History Report Prepared: October 18, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 18, 2007 to October 18, 2012

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: 08/27/2011 ADMINORDER 2011-0350-PWS-E (1660 Order)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 06/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Classification: Moderate

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

Description: TCR IC Routine Monitoring Violation 07/2010 - Failure to collect all 5 increase routine monitoring samples following a coliform found month.

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 11/2010 - System exceeded 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.):

N/A

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: 07/06/2012 (1035992) CN601360050
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source Monitoring Violation 05/2012 - Failure to collect any triggered source monitoring sample(s) following a coliform found result for 1 source.

2 Date: 07/23/2012 (1035992) CN601360050
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 05/2012 - Failure to collect any repeats following a coliform found result.

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
TIMBERLANE WATER SYSTEM, INC.;
RN101182624**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-2123-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is TIMBERLANE WATER SYSTEM, INC. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at the end of FM 2928 in Hemphill, Sabine County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 25 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on September 24, 2012, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to submit routine Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, DLQORs for the first quarter of 2012 and the second quarter of 2012 were not submitted;
 - b. Failed to provide results of quarterly disinfectant by-product ("DBP") monitoring to the Executive Director for the third quarter of 2011 and the first quarter of 2012;
 - c. Failed to collect at least one raw groundwater source *Escherichia coli* ("*E. coli*") sample from the one active source 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 the one active source within 24 hours of being notified of a distribution total coliform-positive result for the month of May 2012;
 - d. Failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2011 monitoring period;
 - e. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result of a routine distribution coliform sample collected during the month of May 2012, and failed to provide public notice of the failure;

- f. Failed to provide the results of synthetic organic contaminant monitoring to the Executive Director for the monitoring period from January 1, 2009 through December 31, 2011; and
 - g. Failed to provide results of the quarterly DBP monitoring to the Executive Director for the second quarter of 2011;
3. Respondent received notice of the violations on or about October 13, 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 TIMBERLANE WATER SYSTEM, INC." (the "EDPRP") in the TCEQ Chief Clerk's office on January 29, 2013. Service was unsuccessful.
 5. The Executive Director re-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 TIMBERLANE WATER SYSTEM, INC." (the "EDPRP") in the TCEQ Chief Clerk's office on February 22, 2013.
 6. By letter dated February 22, 2013, 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 February 26, 2013, as evidenced by the signature on the card.
 7. 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 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit routine 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);
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide results of quarterly DBP monitoring to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.113(e);
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect at least one raw groundwater source *E. coli* sample from the one active source within 24 hours of being notified of a distribution total coliform-positive result, and fail to provide public notice of the failure, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A);
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e);

6. As evidenced by Finding of fact No. 2.e., Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result of a routine distribution coliform sample, and failed to provide public notice of the failure, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A);
7. As evidenced by Finding of fact No. 2.f., Respondent failed to provide the results of synthetic organic contaminant monitoring to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.107(e);
8. As evidenced by Finding of fact No. 2.g., Respondent failed to provide the results of quarterly DBP monitoring to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.113(e).
9. As evidenced by Findings of Fact Nos. 4 through 6, 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. 7, 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 forty dollars (\$1,140.00) 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 forty dollars (\$1,140.00) 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: TIMBERLANE WATER SYSTEM, INC.; Docket No. 2012-2123-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 30 days after the effective date of this Order, Respondent shall:
 - i. Update the Facility's operational guidance and conduct training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORS, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 2);
 - ii. Ensure that 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 By-products) (Conclusions of Law Nos. 3, 5, 7, and 8);
 - iii. 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 (Conclusions of Law Nos. 4 and 6);
 - iv. 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 whichever is later, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Inorganic Contaminants), 290.107 (Organic Contaminants), and 290.113 (Disinfection By-products) (Conclusions of Law Nos. 3, 5, 7, and 8); and
 - v. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and one *E. coli* sample from each groundwater source in use at the time of the distribution coliform-positive sample was collected, and providing water that meets that provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109 (Conclusions of Law Nos. 4 and 6). This provision will be satisfied upon six consecutive months of compliant monitoring.
 - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iv.
 - c. Within 90 days after the effective date of this Order, Respondent shall begin submitting DLQORS to the Executive Director each quarter by the tenth day of each month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 2). This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13097
Austin, Texas 78711-3087

- d. Within 195 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.v. and 3.c.
- 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

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

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COUNTY OF TRAVIS

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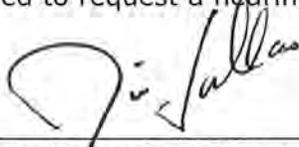
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"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 TIMBERLANE WATER SYSTEM, INC." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 29, 2013. Service was unsuccessful.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on February 22, 2013. The EDPRP was mailed to Respondent's last known address on February 22, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 26, 2013, as evidenced by the signature on the card.

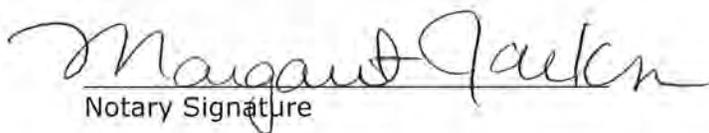
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, 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 3 day of May, A.D. 2013.



Notary Signature

