

Executive Summary – Enforcement Matter – Case No. 46962
DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC
RN101190007
Docket No. 2013-1049-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Daves Roofing, Siding & Metal Bldg, 707 U.S. Highway 62, Lubbock County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 20, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$812

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$812

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 46962
DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC
RN101190007
Docket No. 2013-1049-PWS-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 8, 2013
Date(s) of NOE(s): May 8, 2013

Violation Information

1. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine coliform sample and failed to timely provide public notification regarding the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].
2. Failed to collect at least five routine distribution coliform samples in the month following a total coliform-positive result [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].
3. Failed to comply with the maximum contaminant level for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On April 25, 2013, Respondent submitted public notification regarding the failure to sample for the month of October 2012.

Technical Requirements:

The Order will require Respondent to:

- a. Within 10 days:
 - i. Begin complying with applicable coliform monitoring requirements by collecting all routine, repeat, and increased samples when required and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility.
- b. Within 30 days, submit written certification demonstrating compliance with Ordering Provision a.ii.
- c. Within 205 days, submit written certification demonstrating compliance with Ordering Provision a.i.

**Executive Summary – Enforcement Matter – Case No. 46962
DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC
RN101190007
Docket No. 2013-1049-PWS-E**

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Lisa Arneson Westbrook, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1160; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Steven Tidmore, Operator, DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC, 707 Highway 62 Unit A, Wolfforth, Texas 79382
David Neufeld, President, DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC, 707 Highway 62 Unit A, Wolfforth, Texas 79382
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	13-May-2013	Screening	28-May-2013	EPA Due	30-Jun-2013
	PCW	29-May-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC		
Reg. Ent. Ref. No.	RN101190007		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46962	No. of Violations	3
Docket No.	2013-1049-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lisa Arneson
		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	\$450
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45.0% Enhancement	Subtotals 2, 3, & 7	\$202
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Notes Enhancement for four NOVs with same/similar violations and one agreed order without denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$163
 Approx. Cost of Compliance \$255
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$652
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OTHER FACTORS AS JUSTICE MAY REQUIRE	24.5%	Adjustment	\$160
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to recover the avoided costs of compliance associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount	\$812
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$812
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$812
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Screening Date 28-May-2013

Docket No. 2013-1049-PWS-E

PCW

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDING

Policy Revision 3 (September 2011)

Case ID No. 46962

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101190007

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same/similar violations and one agreed order without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 45%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 45%

Screening Date 28-May-2013

Docket No. 2013-1049-PWS-E

PCW

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC

Policy Revision 3 (September 2011)

Case ID No. 46962

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101190007

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

Violation Number 1

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 coliform distribution samples within 24 hours of being notified of a total coliform-positive result on a routine coliform sample and failed to timely provide public notification regarding the failure to sample for the month of October 2012. Specifically, the Respondent only collected three of four required samples and did not provide public notification regarding the failure to sample.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform repeat coliform monitoring and provide public notification 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 \$33

Violation Final Penalty Total \$271

This violation Final Assessed Penalty (adjusted for limits) \$271

Economic Benefit Worksheet

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC
Case ID No. 46962
Reg. Ent. Reference No. RN101190007
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				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	8-Apr-2013	30-Nov-2013	0.65	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to implement procedures to ensure that all necessary public notifications are provided in a timely manner. Date required is the record review date. 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]	\$25	25-Oct-2012	26-Oct-2012	0.00	\$0	\$25	\$25
Other (as needed)	\$5	1-Nov-2012	31-Jan-2013	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct repeat coliform sampling (\$25 x 1 missed sample), calculated for the 24 hour period after the coliform positive. The other avoided cost includes the estimated amount to provide public notification (\$5 x 1 notification), calculated for the period in which public notification was not provided.

Approx. Cost of Compliance

\$130

TOTAL

\$33

Screening Date 28-May-2013

Docket No. 2013-1049-PWS-E

PCW

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC

Policy Revision 3 (September 2011)

Case ID No. 46962

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101190007

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

Violation Number 2

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

Violation Description Failed to collect at least five routine distribution coliform samples in the month following a total coliform-positive result. Specifically, the Respondent only collected four of the five required samples for November 2012.

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 increased coliform monitoring could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 Number of violation days 30

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 \$25

Violation Final Penalty Total \$271

This violation Final Assessed Penalty (adjusted for limits) \$271

Economic Benefit Worksheet

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC
Case ID No. 46962
Reg. Ent. Reference No. RN101190007
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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No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	1-Nov-2012	30-Nov-2012	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct increased coliform sampling (\$25 x 1 missed sample), calculated for the month when sampling was not conducted.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Screening Date 28-May-2013

Docket No. 2013-1049-PWS-E

PCW

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC

Policy Revision 3 (September 2011)

Case ID No. 46962

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101190007

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Arneson

Violation Number 3

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

Violation Description

Failed to comply with the maximum contaminant level for total coliform during the month of March 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

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 EDRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$271

This violation Final Assessed Penalty (adjusted for limits) \$271

Economic Benefit Worksheet

Respondent DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC
Case ID No. 46962
Reg. Ent. Reference No. RN101190007
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

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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-Mar-2013	31-Mar-2013	1.00	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary for additional sampling and oversight that could have prevented the exceedance, calculated for the month in which the exceedance occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$105

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

PUBLISHED Compliance History Report for CN600754857, RN102681467, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600754857, River Bend Water Services, Inc.	Classification: NOT APPLICABLE	Rating: N/A
Regulated Entity:	RN102681467, RIVER BEND WATER SERVICES	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator: N/A	
CH Group:	14 - Other		
Location:	2 MILES S OF THE ICW IN CITY OF MATAGORDA MATAGORDA, TX, MATAGORDA COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1610030		
Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year: 2013	Rating Date: 09/01/2013
Date Compliance History Report Prepared:	December 10, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	September 01, 2008 to August 31, 2013		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Enforcement Division	Phone:	(512) 239-2454

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: 02/22/2010 ADMINORDER 2009-0355-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.

2 Effective Date: 03/03/2012 ADMINORDER 2011-1409-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2010.

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: 10/04/2012 (1086227) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Failed to comply with the maximum contaminant level of 0.060 mg/L for HAA5 based on the running annual average, in violation of 30 TEX. ADMIN. CODE §290.113(f)(5) and TEX. HEALTH & SAFETY CODE §341.0315(c).

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

Component Appendices

Appendix A

All NOV's Issued During Component Period 9/1/2008 and 8/31/2013

- 1 Date: 11/03/2008 (736041) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.
- 2 Date: 01/23/2009 (736045) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.
- 3 Date: 06/12/2011 (920699) CN600754857
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not maintaining the chlorinator house in good repair.
- 4 Date: 07/27/2011 (943603) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2011.
- 5 Date: 07/27/2011 (943664) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2011.
- 6 Date: 07/27/2011 (943687) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2010.
- 7* Date: 10/04/2012 (1086227) CN600754857
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Failed to comply with the maximum contaminant level of 0.060 mg/L for HAA5 based on the running annual average, in violation of 30 TEX. ADMIN. CODE §290.113(f)(5) and TEX. HEALTH & SAFETY CODE §341.0315(c).

* NOV's applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B

All Investigations Conducted During Component Period September 01, 2008 and August 31, 2013

Item 1	November 03, 2008**	(736041)	For Informational Purposes Only
Item 2	January 23, 2009**	(736045)	For Informational Purposes Only
Item 3	March 03, 2009**	(736805)	For Informational Purposes Only
Item 4	May 03, 2011**	(915202)	For Informational Purposes Only
Item 5	June 09, 2011**	(920699)	For Informational Purposes Only
Item 6	July 28, 2011**	(943603)	For Informational Purposes Only
Item 7	July 29, 2011**	(943803)	For Informational Purposes Only
Item 8	April 22, 2013**	(1086227)	For Informational Purposes Only
Item 9	May 17, 2013**	(1086397)	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN § **BEFORE THE**
ENFORCEMENT ACTION §
CONCERNING § **TEXAS COMMISSION ON**
DAVE'S ROOFING, SIDING AND §
METAL BUILDINGS, LLC §
RN101190007 § **ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2013-1049-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns a public water supply at 707 United States Highway 62 in Lubbock County, Texas (the "Facility") that has approximately two service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on April 8, 2013, TCEQ staff documented that only three of the four required repeat distribution coliform samples were collected within 24 hours of being notified of a total coliform-positive result on a routine coliform sample and that the public notification regarding this failure to sample for the month of October 2012 was not timely submitted.
3. During a record review conducted on April 8, 2013, TCEQ staff documented that only four of the five required routine distribution coliform samples were collected in the month following a total coliform-positive result for the month of November 2012.
4. During a record review conducted on April 8, 2013, TCEQ staff documented that the maximum contaminant level for total coliform was exceeded for the month of March 2013.
5. The Respondent received notice of the violations on May 13, 2013.
6. The Executive Director recognizes that on April 25, 2013, the Respondent submitted public notification regarding the failure to sample for the month of October 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine coliform sample and failed to timely provide public notification regarding the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect at least five routine distribution coliform samples in the month following a total coliform-positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the maximum contaminant level for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Eight Hundred Twelve Dollars (\$812) is justified by the facts recited in this Agreed Order, and considered in light of the factors

set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Eight Hundred Twelve Dollar (\$812) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Eight Hundred Twelve Dollars (\$812) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC, Docket No. 2013-1049-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order:
 - i. Begin complying with applicable coliform monitoring requirements by collecting all routine, repeat, and increased samples when required and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE §290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 Tex. Admin. Code § 290.122.
 - b. Within 30 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.c. and included detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii.
 - c. Within 205 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

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

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Jones
For the Executive Director

11/18/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC. I am authorized to agree to the attached Agreed Order on behalf of DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Jennifer Nowarek
Signature

10-23-13
Date

Jennifer Fraley-Nowarek
Name (Printed or typed)
Authorized Representative of
DAVE'S ROOFING, SIDING AND METAL BUILDINGS, LLC

Part Owner
Title

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