

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46853
Nora Ghani d/b/a Hopper Food Mart
RN102718905
Docket No. 2013-0941-PWS-E

Order Type:

Default Order

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4714 Hopper Road, Houston, Harris County

Type of Operation:

convenience store with a public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$238.15
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: November 22, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$315

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$315

Compliance History Classifications:

Person/CN – unclassified
Site/RN – unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: April 10, 2013

Date(s) of NOV(s): November 10, 2012

Date(s) of NOE(s): November 8, 2013

Violation Information

1. Failed to submit as-built plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply [TEX. HEALTH & SAFETY CODE § 341.035(a) and 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1)].
2. Failed to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block [30 TEX. ADMIN. CODE § 290.41(c)(3)(B)].

Nora Ghani d/b/a Hopper Food Mart**RN102718905****Docket No. 2013-0941-PWS-E**

3. Failed to ensure that all electrical wiring is securely installed in compliance with a local or national electrical code [30 TEX. ADMIN. CODE § 290.46(v)].
4. Failed to fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well [30 TEX. ADMIN. CODE § 290.41(c)(3)(I)].
5. Failed to pay all annual PHS fees for fiscal year 2013, including any associated late fees and penalties, for TCEQ FAD Account No. 91013483 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

Corrective Actions/Technical Requirements**Technical Requirements:**

1. Within 30 days:
 - a. Ensure that all the electrical wiring is securely installed in compliance with a local or national electric code, including but not limited to the electrical wiring at the well;
 - b. Fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well; and
 - c. Submit payment for all outstanding fees, interest, and penalties for TCEQ FAD Account No. 91013483.
2. Within 180 days:
 - a. Increase the height of the well casing on the well such that it is a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block; and
 - b. Submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for review and approval.
3. Submit written certification to demonstrate compliance:
 - a. Within 45 days for Technical Requirement(s) No(s). 1.a. through 1.c.; and
 - b. Within 195 days for Technical Requirement(s) No(s). 2.a. and 2.b.

Litigation Information**Date Petition(s) Filed:** August 29, 2013; September 25, 2013**Date Green Card(s) Signed:** Unclaimed; Unclaimed**Date Answer(s) Filed:** N/A**Contact Information**

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, (512) 239-3400
 Lena Roberts, Litigation Division, (512) 239-3400
 Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, (512) 239-2602**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, (713) 767-3500**Respondent:** Nora Ghani, Owner, Hopper Food Mart, 4502 Flower Bridge Court, Humble, Texas 77396**Respondent's Attorney:** N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	22-Apr-2013	Screening	3-May-2013	EPA Due	
	PCW	13-Aug-2013				

RESPONDENT/FACILITY INFORMATION						
Respondent	Nora Ghani dba Hopper Food Mart					
Reg. Ent. Ref. No.	RN102718905					
Facility/Site Region	12-Houston	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	46853	No. of Violations	5			
Docket No.	2013-0941-PWS-E	Order Type	1660			
Media Program(s)	Public Water Supply	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Katy Montgomery			
		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	\$300
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$15
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$271	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,400	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$315
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$315
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$315
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$315
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Screening Date 3-May-2013

Docket No. 2013-0941-PWS-E

PCW

Respondent Nora Ghani dba Hopper Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46853

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102718905

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

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>)	1	5%
	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	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) 5%

>> Repeat Violator (Subtotal 3)

No

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 one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 3-May-2013

Docket No. 2013-0941-PWS-E

PCW

Respondent Nora Ghani dba Hopper Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46853

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102718905

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(e)(1) and (h)(1) and Tex. Health & Safety Code § 341.035(a)

Violation Description Failed to submit as-built plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 23 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$175

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent Nora Ghani dba Hopper Food Mart
Case ID No. 46853
Reg. Ent. Reference No. RN102718905
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)	\$1,500	30-Aug-2012	30-Apr-2014	1.67	\$8	\$167	\$175
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 submit as-built plans and specifications for the existing Facility, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$175

Screening Date 3-May-2013

Docket No. 2013-0941-PWS-E

PCW

Respondent Nora Ghani dba Hopper Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46853

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102718905

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(B)

Violation Description Failed to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block. Specifically, the well casing was less than the required 18 inches above the natural ground surface.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5.0%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Failure to provide a well casing that extends a minimum of 18 inches above the elevation of the concrete sealing block or natural ground surface may allow the well water to be exposed to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 23 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, April 10, 2013, to the screening date, May 3, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$58

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent Nora Ghani dba Hopper Food Mart
Case ID No. 46853
Reg. Ent. Reference No. RN102718905
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
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	\$500	30-Aug-2012	30-Apr-2014	1.67	\$3	\$56	\$58
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to extend the well casing to a minimum of 18 inches above the concrete sealing block, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$58

Screening Date 3-May-2013

Docket No. 2013-0941-PWS-E

PCW

Respondent Nora Ghani dba Hopper Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46853

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102718905

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(v)

Violation Description Failed to ensure that all electrical wiring is securely installed in compliance with a local or national electrical code. Specifically, the electrical wiring for the well was not installed in conduit.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

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

Matrix Notes Failure to install all electrical wiring in compliance with a local or national code may cause equipment malfunctioning which could expose customers of the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 23 Number of violation days

Table for event frequency: daily, weekly, monthly (x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$150

One monthly event is recommended, calculated from the investigation date, April 10, 2013, to the screening date, May 3, 2013.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: 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 \$19 Violation Final Penalty Total \$158

This violation Final Assessed Penalty (adjusted for limits) \$158

Economic Benefit Worksheet

Respondent Nora Ghani dba Hopper Food Mart
Case ID No. 46853
Reg. Ent. Reference No. RN102718905
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)	\$200	30-Aug-2012	31-Dec-2013	1.34	\$1	\$18	\$19
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to ensure that all wiring is installed in accordance with a local or national code, calculated from the investigation date initially documenting the violation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$19

Screening Date 3-May-2013

Docket No. 2013-0941-PWS-E

PCW

Respondent Nora Ghani dba Hopper Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46853

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102718905

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(I)

Violation Description Failed to fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well. Specifically, the well site did not have appropriate grading for proper drainage away from the well casing.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%
	Failure to fine grade the well site so that surface water will drain away from the well may allow the well water to be exposed to a significant amount of contaminants which would not exceed levels protective of human health.				

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 23 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$50
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended, calculated from the investigation date, April 10, 2013, to the screening date, May 3, 2013.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent Nora Ghani dba Hopper Food Mart
Case ID No. 46853
Reg. Ent. Reference No. RN102718905
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)				0.00	\$0	\$0	\$0
Engineering/construction	\$200	30-Aug-2012	31-Dec-2013	1.34	\$1	\$18	\$19
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to grade the well site so that surface water will drain away from the well, calculated from the date of the investigation initially documenting the violation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$19

Screening Date 3-May-2013

Docket No. 2013-0941-PWS-E

PCW

Respondent Nora Ghani dba Hopper Food Mart

Policy Revision 3 (September 2011)

Case ID No. 46853

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102718905

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 5

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

Violation Description Failed to pay all annual Public Health Service ("PHS") fees, for fiscal year 2013, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 91013483.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%). Includes Matrix Notes field.

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table for marking violation frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

Table for Good Faith Efforts to Comply with columns: Reduction (Before NOV, NOV to EDPRP/Settlement Offer) and rows: Extraordinary, Ordinary, N/A.

\$0

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

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Nora Ghani dba Hopper Food Mart
Case ID No. 46853
Reg. Ent. Reference No. RN102718905
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

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

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

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

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 CN600640494, RN102718905, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600640494, GHANI, NORA

Classification: UNCLASSIFIED

Rating: -----

Regulated Entity: RN102718905, HOPPER FOOD MART

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 3

Repeat Violator: NO

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 4714 HOPPER ROAD, HOUSTON, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1013483

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: May 03, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 03, 2008 to May 03, 2013

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

Name: Katy Montgomery

Phone: (512) 239-2602

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 July 17, 2012 (1020344)

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

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

1 Date: 11/10/2012 (1029504) CN600640494
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)(1)

Description: Failure to secure the services of a registered professional engineer well versed in the design and construction of public water systems so that "as built" plans and specifications can be prepared and submitted for our review.

Self Report? NO Classification: Moderate

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

Description: Failure to provide a well casing 18 inches above the elevation of the natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block.

Self Report? NO Classification: Minor

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

Description: Failure to install all water system electrical wiring in compliance with a local or national electrical code.

Self Report? NO Classification: Moderate

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

Description: Failure to fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well.

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
NORA GHANI D/B/A
HOPPER FOOD MART;
RN102718905**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-0941-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. WATER CODE ch. 5, 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 Nora Ghani d/b/a Hopper Food Mart ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns a public water system located at 4714 Hopper Road in Houston, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted on April 10, 2013, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to submit as-built plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply;
 - b. Failed to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block. Specifically, the well casing was less than 18 inches above the natural ground surface;
 - c. Failed to ensure that all electrical wiring is securely installed in compliance with a local or national electrical code. Specifically, the electrical wiring for the well was not installed in conduit;
 - d. Failed to fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well. Specifically, the well site did not have the appropriate grading for proper drainage away from the well casing; and
 - e. Failed to pay all annual Public Health Service ("PHS") fees for fiscal year 2013, including any associated late fees and penalties, for TCEQ Financial Administration Division ("FAD") Account No. 91013483.
3. Respondent received notice of the violation on or about April 20, 2013.

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 Nora Ghani d/b/a Hopper Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on August 29, 2013.
5. The EDPRP was mailed to Respondent's last known address on August 29, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on September 25, 2013.
7. The EDPRP was mailed to Respondent's last known address, on September 25, 2013, via certified mail, return receipt requested and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
8. 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. WATER CODE ch. 5, 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 as-built plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply, in violation of TEX. HEALTH & SAFETY CODE § 341.035(a) and 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(B).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to ensure that all electrical wiring is securely installed in compliance with a local or national electrical code, in violation of 30 TEX. ADMIN. CODE § 290.46(v).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(I).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to pay all annual PHS fees for fiscal year 2013, including any associated late fees and penalties, for TCEQ FAD Account No. 91013483, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
7. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
8. As evidenced by Finding of Fact No. 8, 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.

9. 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.
10. An administrative penalty in the amount of three hundred fifteen dollars (\$315.00) 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.
11. 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 three hundred fifteen dollars (\$315.00) 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: Nora Ghani d/b/a Hopper Food Mart; Docket No. 2013-0941-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. Ensure that all the electrical wiring at the Facility is securely installed in compliance with a local or national electric code, including but not limited to the electrical wiring at the well, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Fine grade the well site so that the site is free from depressions, reverse grades or areas too rough for proper ground maintenance so as to ensure that surface water will drain away from the well, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
 - iii. Submit payment for all outstanding fees, interest, and penalties for TCEQ FAD Account No. 91013483. The payment shall be sent with the

notation "Nora Ghani d/b/a Hopper Food Mart, TCEQ FAD Account No. 91013483" 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

b. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iii.

c. Within 180 days after the effective date of this Order, Respondent shall:

i. Increase the height of the well casing on the well such that it is a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block, in accordance with 30 TEX. ADMIN. CODE § 290.41; and

ii. Submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.39. The plans, specifications, and reports shall be submitted to:

Utilities Technical Review Team
Water Supply Division, MC 159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning as-built plans, specifications, and engineering reports within 15 days after the date of such requests, or by any other deadline specified in writing.

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.c.i. and 3.c.ii.

e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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

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

and:

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

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

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PHILLIP M. GOODWIN

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Phillip M. Goodwin. 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 Nora Ghani d/b/a Hopper Food Mart" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on August 29, 2013.

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The EDPRP was mailed to Respondent's last known address on September 25, 2013, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

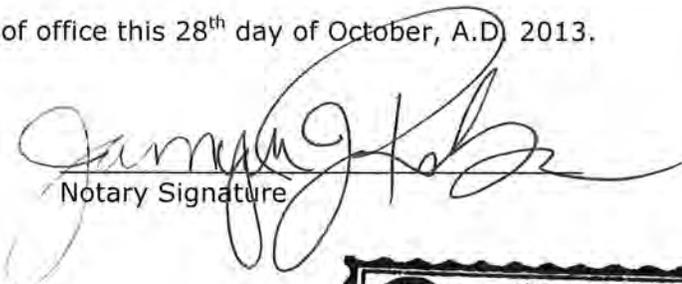
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



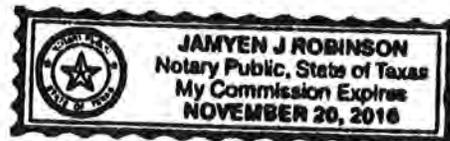
Phillip M. Goodwin, P.G., Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, 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 28th day of October, A.D. 2013.



Notary Signature



Notary without Bond