

Executive Summary – Enforcement Matter – Case No. 47159
City of Mertens
RN101401651
Docket No. 2013-1254-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Mertens, 106 West Front Street, Mertens, Hill 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: November 15, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$650

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$650

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$198 and \$316

Applicable Penalty Policy: September 2002 and September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 10, 2013

Date(s) of NOE(s): June 26, 2013

Executive Summary – Enforcement Matter – Case No. 47159
City of Mertens
RN101401651
Docket No. 2013-1254-PWS-E

Violation Information

1. Failed to timely 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 [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to timely mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) to each bill paying customer by July 1 of each year and failed to timely submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On August 12, 2013, submitted the CCR for the years 2010, 2011, and 2012 to each bill-paying customer and submitted a copy of the CCRs and certification that the CCRs have been distributed to the customers of the Facility to the TCEQ; and
- b. On August 28, 2013, submitted the DLQORs for the third quarter of 2010 through the first quarter of 2013.

Technical Requirements:

The Respondent shall undertake the following technical requirements:

- a. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs;
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter; and
- d. Within 285 days, submit written certification demonstrating compliance with Ordering Provision c.

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

Executive Summary – Enforcement Matter – Case No. 47159
City of Mertens
RN101401651
Docket No. 2013-1254-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Sam Keller, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Barbara Crass, Mayor Pro-Tem, City of Mertens, P.O. Box 26, Mertens, Texas 76666

Respondent's Attorney: N/A





Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	1-Jul-2013	Screening	2-Jul-2013	EPA Due	31-Dec-2012
	PCW	28-Aug-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Mertens
Reg. Ent. Ref. No.	RN101401651
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	47159	No. of Violations	2
Docket No.	2013-1254-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Sam Keller
		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	\$50
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>		
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7 \$2
Notes	Enhancement for one NOV with same/similar violations.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$0
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
<small>Total EB Amounts</small>	\$31	
<small>Approx. Cost of Compliance</small>	\$319	<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7	Final Subtotal	\$52
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes		
	Final Penalty Amount	\$52
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$250
DEFERRAL	0.0% Reduction	Adjustment \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	No deferral is recommended for Findings Orders.	
PAYABLE PENALTY		\$250

Screening Date 2-Jul-2013

Docket No. 2013-1254-PWS-E

PCW

Respondent City of Mertens

Policy Revision 2 (September 2002)

Case ID No. 47159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101401651

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

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)**

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

Screening Date 2-Jul-2013

Docket No. 2013-1254-PWS-E

PCW

Respondent City of Mertens

Policy Revision 2 (September 2002)

Case ID No. 47159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101401651

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

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

Violation Description Failed to timely 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 did not timely submit DLQORs for the third quarter of 2010 through the second quarter of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 4 Number of violation days 364

mark only one with an x

Daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$40

Four single events are recommended (one for each quarter the report was not submitted).

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 \$40

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$42

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

Economic Benefit Worksheet

Respondent City of Mertens
Case ID No. 47159
Reg. Ent. Reference No. RN101401651
Media Public Water Supply
Violation No. 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

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	\$45	10-Jun-2013	31-Mar-2014	0.81	\$2	n/a	\$2
Training/Sampling	\$100	10-Jun-2013	31-Mar-2014	0.81	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$88	10-Oct-2010	28-Aug-2013	2.88	\$13	n/a	\$13

Notes for DELAYED costs

The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that the self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs, calculated from the record review date to the estimated date of compliance. The other delayed costs include the estimated amount to prepare and submit DLQORs (\$22 per report x 4 missed reports), calculated from the date the first report was due to the date the reports were submitted.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$233

TOTAL

\$19

Screening Date 2-Jul-2013

Docket No. 2013-1254-PWS-E

PCW

Respondent City of Mertens

Policy Revision 2 (September 2002)

Case ID No. 47159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101401651

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

Rule Cite(s)

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

Violation Description

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

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

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 \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of Mertens
Case ID No. 47159
Reg. Ent. Reference No. RN101401651
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$86	1-Jul-2011	12-Aug-2013	2.12	\$1	\$12	\$13
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 prepare and mail or directly deliver the 2010 CCR to the customers of the Facility and to the TCEQ $([\$0.50 \times 73 \text{ connections}] + \$50 \times 1 \text{ year})$, calculated from the date the CCR was due to the date the CCR was submitted.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$86

TOTAL

\$13





Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	1-Jul-2013	Screening	2-Jul-2013	EPA Due	31-Dec-2012
	PCW	28-Aug-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Mertens		
Reg. Ent. Ref. No.	RN101401651		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47159	No. of Violations	2
Docket No.	2013-1254-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Sam Keller
		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

Culpability Enhancement **Subtotal 4**

Notes

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

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

PAYABLE PENALTY

Screening Date 2-Jul-2013

Docket No. 2013-1254-PWS-E

PCW

Respondent City of Mertens

Policy Revision 3 (September 2011)

Case ID No. 47159

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101401651

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

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 2-Jul-2013

Docket No. 2013-1254-PWS-E

PCW

Respondent City of Mertens

Policy Revision 3 (September 2011)

Case ID No. 47159

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101401651

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

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

Violation Description Failed to timely 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 did not timely submit DLQORs for the third quarter of 2011 through the first quarter of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	Less than 30% of the rule requirement was not met.				

Adjustment \$990

\$10

Violation Events

Number of Violation Events 7 Number of violation days 640

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

Violation Base Penalty \$70

Seven single events are recommended (one for each quarter the report was not submitted).

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 \$70

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$74

This violation Final Assessed Penalty (adjusted for limits) \$350

Economic Benefit Worksheet

Respondent City of Mertens
Case ID No. 47159
Reg. Ent. Reference No. RN101401651
Media Public Water Supply
Violation No. 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	0/8	\$0	
Record Keeping System			0.00	\$0	0/8	\$0	
Training/Sampling			0.00	\$0	0/8	\$0	
Remediation/Disposal			0.00	\$0	0/8	\$0	
Permit Costs			0.00	\$0	0/8	\$0	
Other (as needed)	\$154	10-Oct-2011	28-Aug-2013	1.88	\$15	0/8	\$15

Notes for DELAYED costs

The delayed costs include the estimated amount to prepare and submit DLQORs (\$22 per report x 7 missed reports), calculated from the date the first report was due to the date the reports were submitted. The other delayed costs of compliance for this violation are associated with the Economic Benefit for Violation No. 1 on the Revision 2 PCW.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$154

TOTAL

\$15

Screening Date 2-Jul-2013

Docket No. 2013-1254-PWS-E

PCW

Respondent City of Mertens

Policy Revision 3 (September 2011)

Case ID No. 47159

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101401651

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

Rule Cite(s)

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

Violation Description

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

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$10

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 \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent: City of Mertens
Case ID No.: 47159
Reg. Ent. Reference No.: RN101401651
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

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)	\$86	1-Jul-2012	12-Aug-2013	1.12	\$0	\$6	\$7
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 prepare and mail or directly deliver the 2011 CCR to the customers of the Facility and to the TCEQ ($[\$0.50 \times 73 \text{ connections}] + \$50 \times 1 \text{ year}$), calculated from the date the CCR was due to the date the CCR was submitted.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$86

TOTAL

\$7





Compliance History Report

PUBLISHED Compliance History Report for CN600737944, RN101401651, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600737944, City of Mertens
Classification: SATISFACTORY **Rating:** 1.73

Regulated Entity: RN101401651, City of Mertens
Classification: NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 106 WEST FRONT STREET, MERTENS, HILL COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1090024 **WATER LICENSING LICENSE** 1090024

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

Date Compliance History Report Prepared: July 02, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 02, 2008 to July 02, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Sam Keller **Phone:** (512) 239-2678

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.):
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: 06/14/2013 (1099800) CN600737944
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)
Description: CCR 2011 - The system failed to provide the Consumer Confidence Report (CCR) for 2011 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

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 NOVs Issued During Component Period 7/2/2008 and 7/2/2013

- 1 Date: 08/25/2008 (701348) CN600737944
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(2)
Description: Failure to maintain a residual disinfectant concentration of at least 0.2 milligram per liter (mg/L) free chlorine.
- 2 Date: 11/03/2009 (795375) CN600737944
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.
- 3 Date: 12/30/2010 (878331) CN600737944
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to make operating records accessible for review during the inspection.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to ensure that all clearwells, ground storage tanks, standpipes, and elevated tanks are painted, disinfected, and maintained in strict accordance with current AWWA standards.
- 4* Date: 12/12/2011 (1099800) CN600737944
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)
Description: CCR 2010 - The system failed to provide the Consumer Confidence Report (CCR) for 2010 to its bill-paying customers and/or the TCEQ by July 1st of the following year.
- 5 Date: 06/14/2013 (1099800) CN600737944
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)
Description: CCR 2011 - The system failed to provide the Consumer Confidence Report (CCR) for 2011 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012.

Appendix B

All Investigations Conducted During Component Period July 02, 2008 and July 02, 2013

- Item 1 November 03, 2009** (795375)
Item 2 April 08, 2010** (797853)
Item 3 December 29, 2010** (878331)
Item 4 June 19, 2013 (1099800)
Item 5 June 28, 2013 (1100055)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2007 and 08/31/2012.



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MERTENS
RN101401651**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-1254-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 the City of Mertens (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 and operates a public water supply at 106 West Front Street in Mertens, Hill County, Texas (the "Facility") that has 73 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on June 10, 2013, TCEQ staff documented that the Respondent did not timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director for the third quarter of 2010 through the first quarter of 2013.
3. During a record review conducted on June 10, 2013, TCEQ staff documented that the Respondent did not timely mail or directly deliver the Consumer Confidence Report ("CCR") to the bill paying customers nor did the Respondent timely submit the CCR or the required certification to the TCEQ for the years 2010 and 2011.
4. The Respondent received notice of the violations on July 1, 2013.
5. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On August 12, 2013, submitted the CCR for the years 2010, 2011, and 2012 to each bill-paying customer and submitted a copy of the CCRs and certification that the CCRs have been distributed to the customers of the Facility to the TCEQ; and
 - b. On August 28, 2013, submitted the DLQORs for the third quarter of 2010 through the first quarter of 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to timely submit a DLQOR 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 Findings of Fact No. 3, the Respondent failed to timely mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to timely submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).

4. 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.
5. An administrative penalty in the amount of Six Hundred Fifty Dollars (\$650) 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 Six Hundred Fifty Dollar (\$650) 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 Six Hundred Fifty Dollars (\$650) as set forth in Section II, Paragraph 5 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: City of Mertens, Docket No. 2013-1254-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 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

12/16/13
Date

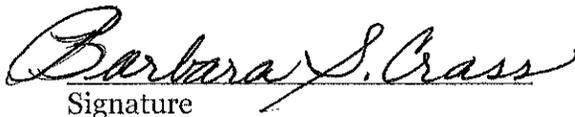
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Mertens. I am authorized to agree to the attached Agreed Order on behalf of the City of Mertens, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Mertens 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.


Signature

September 30, 2013
Date

Barbara S. Crass
Name (Printed or typed)
Authorized Representative of
City of Mertens

Mayor - Pro Tem
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.