

**Executive Summary – Enforcement Matter – Case No. 43255  
Duchman, Ltd. dba Duchman Family Winery  
RN106301245  
Docket No. 2013-0682-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order.

**Media:**

PWS

**Small Business:**

Yes

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

Duchman Family Winery, 13308 Farm-to-Market Road 150 West, Hays 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:** December 6, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$6,058

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,058

**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:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** February 25, 2013 and July 22, 2013

**Date(s) of NOE(s):** March 27, 2013 and July 25, 2013



**Executive Summary – Enforcement Matter – Case No. 43255**  
**Duchman, Ltd. dba Duchman Family Winery**  
**RN106301245**  
**Docket No. 2013-0682-PWS-E**

***Violation Information***

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to submit engineering plans and specifications to the Executive Director and obtain approval of the plans and specifications prior to the construction of a new public water system [30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1), TEX. HEALTH & SAFETY CODE § 341.035(a), and TCEQ Agreed Order Docket No. 2012-0053-PWS-E, Ordering Provision Nos. 2.c. and 2.e.].
3. Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection [30 TEX. ADMIN. CODE § 290.42(b)(1) and TCEQ Agreed Order Docket No. 2012-0053-PWS-E, Ordering Provision No. 2.a.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

a. Within 10 days:

i. Install and begin operating disinfection facilities to continuously maintain an adequate disinfectant residual throughout the distribution system for the purpose of microbiological control and distribution protection; and

ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform monitoring samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.

b. Within 25 days, submit written certification demonstrating compliance with Ordering Provision a.i.

c. Within 180 days, submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for review and approval.

d. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning as-built plans and well complete information within 15 days after the date of such requests, or by any other deadline specified in writing.



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- e. Within 205 days, submit written certification demonstrating compliance with Ordering Provision a.ii.
- f. Within 270 days, obtain approval of the as-built plans and specifications.
- g. Within 285 days, submit written certification demonstrating compliance with Ordering Provision 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:** 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:** Stanley Duchman, President, Duchman, Ltd., P.O. Box 187, Driftwood, Texas 78619  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**ICEQ**

<b>DATES</b>	Assigned	29-Jul-2013			
	PCW	9-Aug-2013	Screening	5-Aug-2013	EPA Due 31-Mar-2013

RESPONDENT/FACILITY INFORMATION	
Respondent	Duchman, Ltd. dba Duchman Family Winery
Reg. Ent. Ref. No.	RN106301245
Facility/Site Region	11-Austin
	Major/Minor Source
	Minor

CASE INFORMATION	
Enf./Case ID No.	43255
Docket No.	2013-0682-PWS-E
Media Program(s)	Public Water Supply
Multi-Media	
	No. of Violations
	3
	Order Type
	Findings
	Government/Non-Profit
	No
	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** **\$3,800**

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

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

**Compliance History** **50.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,900**

Notes: Enhancement for six NOVs with same/similar violations and one agreed order with a denial of liability.

**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**

Total EB Amounts	\$1,156	
Approx. Cost of Compliance	\$5,875	*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$5,700**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **6.3%** Adjustment **\$358**

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance for Violation No. 1.

**Final Penalty Amount** **\$6,058**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$6,058**

**DEFERRAL** **0.0%** Reduction Adjustment **\$0**

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** **\$6,058**

## Economic Benefit Worksheet

**Respondent:** Duchman, Ltd. dba Duchman Family Winery  
**Case ID No.:** 43255  
**Reg. Ent. Reference No.:** RN106301245  
**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
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**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	0.00			0.00	\$0	\$0	\$0
Buildings	0.00			0.00	\$0	\$0	\$0
Other (as needed)	0.00			0.00	\$0	\$0	\$0
Engineering/construction	0.00			0.00	\$0	\$0	\$0
Land	0.00			0.00	\$0		\$0
Record Keeping System	0.00			0.00	\$0		\$0
Training/Sampling	0.00			0.00	\$0		\$0
Remediation/Disposal	0.00			0.00	\$0		\$0
Permit Costs	0.00			0.00	\$0		\$0
Other (as needed)	0.00			0.00	\$0		\$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			0.00	\$0	\$0	\$0
Personnel	0.00			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.00			0.00	\$0	\$0	\$0
Supplies/equipment	0.00			0.00	\$0	\$0	\$0
Financial Assurance [2]	0.00			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$325	1-Jan-2012	31-Jan-2013	2.00	\$33	\$325	\$358
Other (as needed)	0.00			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25 x 13 samples) to conduct routine coliform sampling, calculated for the months sampling was not conducted.

Approx. Cost of Compliance	\$325	<b>TOTAL</b>	\$358
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Screening Date 5-Aug-2013

Docket No. 2013-0682-PWS-E

PCW

Respondent Duchman, Ltd. dba Duchman Family Winery

Policy Revision 3 (September 2011)

Case ID No. 43255

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106301245

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.39(e)(1) and (h)(1), Tex. Health & Safety Code § 341.035(a), and TCEQ Agreed Order Docket No. 2012-0053-PWS-E, Ordering Provision Nos. 2.c. and 2.e.

Violation Description

Failed to submit engineering plans and specifications to the Executive Director and obtain approval of the plans and specifications prior to the construction of a new public water system. Specifically, the Respondent was operating a business which meets the definition of a transient non-community public water supply without first obtaining approval.

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 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

358 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 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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$719

Violation Final Penalty Total \$80

This violation Final Assessed Penalty (adjusted for limits) \$80

## Economic Benefit Worksheet

**Respondent:** Duchman, Ltd. dba Duchman Family Winery  
**Case ID No.:** 43255  
**Reg. Ent. Reference No.:** RN106301245  
**Media:** Public Water Supply  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	12-Aug-2012	1-Sep-2014	2.05	\$34	\$685	\$719
Land				0.00	\$0		\$0
Record Keeping System				0.00	\$0		\$0
Training/Sampling				0.00	\$0		\$0
Remediation/Disposal				0.00	\$0		\$0
Permit Costs				0.00	\$0		\$0
Other (as needed)				0.00	\$0		\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to hire an engineer to develop and submit as-built plans and specifications of the Facility to the Commission and obtain Commission approval of the plans and specifications, calculated from the effective date of TCEQ Agreed Order Docket No. 2012-0053-PWS-E 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

\$5,000

**TOTAL**

\$719

Screening Date 5-Aug-2013

Docket No. 2013-0682-PWS-E

PCW

Respondent Duchman, Ltd. dba Duchman Family Winery

Policy Revision 3 (September 2011)

Case ID No. 43255

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106301245

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 3

Rule Cite(s) 30 Tex. Adm. Code § 290.42(b)(1) and TCEQ Agreed Order Docket No. 2012-0053-PWS-E, Ordering Provision No. 2.a.

Violation Description

Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection. Specifically, it was documented that the Facility did not have any disinfection facilities to disinfect the groundwater supplied from the water well.

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	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Without disinfection facilities there is no method to ensure microbiological control and proper disinfection of the water exposing customers of the Facility to contaminants which would exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 12

358 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
multiple	

Violation Base Penalty \$1,800

Twelve monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2012-0053-PWS-E, August 12, 2012, to the date of screening, August 5, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$2,870

This violation Final Assessed Penalty (adjusted for limits) \$2,870

## Economic Benefit Worksheet

**Respondent:** Duchman, Ltd. dba Duchman Family Winery  
**Case ID No.:** 43255  
**Reg. Ent. Reference No.:** RN106301245  
**Media Violation No.:** Public Water Supply 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$550	12-Aug-2012	1-Sep-2014	2.05	\$4	\$75	\$79
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	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide disinfection facilities for microbiological control and distribution protection, calculated from the effective date of TCEQ Agreed Order Docket No. 2012-0053-PWS-E 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

\$550

**TOTAL**

\$79



# Compliance History Report

**PUBLISHED** Compliance History Report for CN602936304, RN106301245, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN602936304, Duchman, Ltd.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	13.33
<b>Regulated Entity:</b>	RN106301245, Duchman Family Winery	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	13308 FARM-TO-MARKET ROAD 150 WEST, HAYS COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 11 - AUSTIN				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1050173				

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	August 02, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	August 02, 2008 to August 02, 2013				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Sam Keller	<b>Phone:</b>	(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? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 08/12/2012 ADMINORDER 2012-0053-PWS-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)  
30 TAC Chapter 290, SubChapter D 290.39(h)(1)  
5A THSC Chapter 341, SubChapter A 341.035(a)  
Description: Failed to submit engineering plans and specifications to the Executive Director and obtain approval of the plans and specifications prior to the construction of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a), as documented during an investigation conducted on October 12, 2011.  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(1)  
Description: Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection.

#### **B. Criminal convictions:**

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  
DUCHMAN, LTD. DBA DUCHMAN  
FAMILY WINERY  
RN106301245**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2013-0682-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 Duchman, Ltd. dba Duchman Family Winery (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 13308 Farm-to-Market Road 150 West in Hays County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on February 25, 2013, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of January 2012 through January 2013.
3. During a record review conducted on July 22, 2013, TCEQ staff documented that the Respondent was operating a business which meets the definition of a transient non-community public water supply without first obtaining approval.
4. During a record review conducted on July 22, 2013, TCEQ staff documented that the Facility did not have any disinfection facilities to disinfect the groundwater supplied from the water well.
5. The Respondent received notices of the violations on April 1, 2013 and July 29, 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 collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to submit engineering plans and specifications to the Executive Director and obtain approval of the plans and specifications prior to the construction of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1), TEX. HEALTH & SAFETY CODE § 341.035(a), and TCEQ Agreed Order Docket No. 2012-0053-PWS-E, Ordering Provision Nos. 2.c. and 2.e.
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1) and TCEQ Agreed Order Docket No. 2012-0053-PWS-E, Ordering Provision No. 2.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 Six Thousand Fifty-Eight Dollars (\$6,058) 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 Thousand Fifty-Eight Dollar (\$6,058) 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 Thousand Fifty-Eight Dollars (\$6,058) 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: Duchman, Ltd. dba Duchman Family Winery, Docket No. 2013-0682-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. Install and begin operating disinfection facilities to continuously maintain an adequate disinfectant residual throughout the distribution system for the purpose of microbiological control and distribution protection, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
    - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform monitoring samples 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.

- b. Within 25 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.f., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.;
- c. Within 180 days after the effective date of the Agreed Order, 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, TX 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning as-built plans and well complete information within 15 days after the date of such requests, or by any other deadline specified in writing;

- d. Within 205 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.f., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii.;
- e. Within 270 days after the effective date of this Agreed Order, obtain approval of the as-built plans and specifications, in accordance with 30 TEX. ADMIN. CODE § 290.39; and
- f. Within 285 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.e. 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 copies to:

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

and:

Water Section Manager  
Austin Regional Office  
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

  
For the Executive Director

1.9.14  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Duchman, Ltd. dba Duchman Family Winery. I am authorized to agree to the attached Agreed Order on behalf of Duchman, Ltd. dba Duchman Family Winery, 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, Duchman, Ltd. dba Duchman Family Winery 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

10-28-2013  
Date

Stanley M. Duchman  
Name (Printed or typed)  
Authorized Representative of  
Duchman, Ltd. dba Duchman Family Winery

President  
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.

