

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 38136  
Virginia Franklin Fuller dba Franklin Water Systems 3  
RN101264372  
Docket No. 2013-0819-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:**

4813 Idalou Road, Lubbock, Lubbock County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$1,750 (2001-0837-PWS-E; returned uncollected);  
\$3,906 (2012-0171-PWS-E)  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** November 21, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$13,900

**Total Paid to General Revenue:** \$390

**Total Due to General Revenue:** \$13,510

Payment Plan: 35 payments of \$386 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** \$40 enhancement

**Applicable Penalty Policy:** September 2011

**Investigation Information**

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

**Date(s) of Investigation:** March 4, 2013

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** April 12, 2013

**Violation Information**

1. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].
2. Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well [30 TEX. ADMIN. CODE § 290.41(c)(1)(D) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.b.].
3. Failed to provide a minimum storage capacity of 200 gallons per connection [TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii); and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.i.].
4. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute (“gpm”) per connection at each pump station or pressure plane [TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii); and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.ii.].
5. Failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.iii.].
6. Failed to provide a pressure tank capacity of at least 20 gallons per connection [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv)].
7. Failed to obtain a sanitary control easement for all land within 150 feet of each of the Facility’s wells [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 60 days, ensure that the livestock in pastures are not allowed within 50 feet of a water supply well.
2. Within 90 days, either obtain a sanitary control easement that covers the land within 150 feet of each of the Facility’s wells or obtain Commission approval of an exception to the easement requirement.
3. Within 180 days:
  - a. Provide a minimum storage capacity of 200 gallons per connection;
  - b. Provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane;
  - c. Either plug all abandoned public water supply wells with cement or test the wells every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition;
  - d. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility, including repairing or replacing the pressure tank at Well No. 1; and
  - e. Provide a pressure tank capacity of at least 20 gallons per connection.
4. Submit written certification to demonstrate compliance:
  - a. Within 75 days for Technical Requirement No. 1;
  - b. Within 105 days for Technical Requirement No. 2; and
  - c. Within 195 days for Technical Requirement No. 3.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 38136  
Virginia Franklin Fuller dba Franklin Water Systems 3  
RN101264372  
Docket No. 2013-0819-PWS-E

**Litigation Information**

**Date Petition(s) Filed:** June 20, 2013  
**Date Answer(s) Filed:** July 15, 2013  
**SOAH Referral Date:** August 20, 2013  
**Hearing Date(s):**  
Preliminary Hearing: October 10, 2013 (waived)  
Evidentiary Hearing: March 6, 2014 (continued)  
**Settlement Date:** October 1, 2014

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016  
**TCEQ Regional Contact:** Gary Shipp, Lubbock Regional Office, (806) 796-7092  
**Respondent Contact:** Virginia Franklin Fuller, 401 North Carroll Avenue, No. 156, Southlake, Texas 76092  
**Respondent's Attorney:** Timothy L. Vinson, Law Office of Timothy L. Vinson, 5596 Davis Boulevard, Suite 100, North Richland Hills, Texas 76180

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# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	15-Apr-2013		
	<b>PCW</b>	15-May-2013	<b>Screening</b>	25-Apr-2013
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Virginia Franklin Fuller dba Franklin Water Systems 3
<b>Reg. Ent. Ref. No.</b>	RN101264372
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38136	<b>No. of Violations</b>	7
<b>Docket No.</b>	2013-0819-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$9,240
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
<b>Compliance History</b>	50.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$4,620

Notes: Enhancement for one Agreed Order without a denial of liability and one Default Order.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$9,538  
 Approx. Cost of Compliance: \$53,976  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$13,860
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$13,860
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$13,900
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$13,900
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**Screening Date** 25-Apr-2013

**Docket No.** 2013-0819-PWS-E

**PCW**

**Respondent** Virginia Franklin Fuller dba Franklin Water System

Policy Revision 3 (September 2011)

**Case ID No.** 38136

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101264372

**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> )	0	0%
	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	2	50%
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)** 50%

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

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one Agreed Order without a denial of liability and one Default Order.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 50%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 50%

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)

Violation Description

Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the investigation conducted on March 4, 2013, it was documented that the pressure tank at Well No. 1 was found to have collapsed. The well and pressure tank had been taken offline, yet no maintenance measures to ensure the good working condition and general appearance of the water system were provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain the good working condition and general appearance of the Facility's equipment could expose the customers of the Facility to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

52 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, March 4, 2013, to the screening date, April 25, 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 \$87

Violation Final Penalty Total \$75

This violation Final Assessed Penalty (adjusted for limits) \$75

# Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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	4-Mar-2013	31-Dec-2013	0.83	\$4	\$83	\$87
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 to repair the pressure tank at Well No. 1, calculated from the investigation date to the estimated date of compliance.

## Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$87

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(D) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.b.

Violation Description

Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well. Specifically, at the time of the investigation conducted on March 4, 2013, it was documented that a horse was grazing in a pasture north of Well No. 1 and portions of the fence were erected within 30 feet of the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to keep livestock at least 50 feet from the well could expose customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 7

556 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$350

Seven quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-PWS-E, October 17, 2011, to the screening date, April 25, 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 \$350

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

# Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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				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)	\$200	17-Oct-2011	31-Dec-2013	2.21	\$22	n/a	\$22

Notes for DELAYED costs

The delayed cost includes the estimated amount to change the location of the fence to prevent livestock from roaming within 50 feet of the well, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-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

\$200

**TOTAL**

\$22

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.i.

Violation Description

Failed to provide a minimum storage capacity of 200 gallons per connection. Specifically, the Facility's 88 potential service connections require a total storage capacity of at 17,600 gallons; however, there was no ground storage capacity, indicating a 100% deficiency.

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

Failure to provide adequate storage capacity may lead to water shortages or outages 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 19

556 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,850

Nineteen monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-PWS-E, October 17, 2011, to the screening date, April 25, 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 \$2,850

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,945

Violation Final Penalty Total \$4,275

This violation Final Assessed Penalty (adjusted for limits) \$4,275

# Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$37,840	17-Oct-2011	31-May-2014	2.62	\$331	\$6,614	\$6,945
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to provide a minimum storage capacity of 200 gallons per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-PWS-E to the estimated date of compliance.

### 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 \$37,840

**TOTAL** \$6,945

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.ii.

Violation Description

Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane. Specifically, the Facility's 88 potential service connections require a minimum service pump capacity of 176 gpm; however, there were no service pumps, indicating a 100% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide adequate service pump capacity may not allow the Facility to supply water to sections of the distribution system where it is not possible to supply it by gravity; thereby exposing customers of the Facility to contaminants that would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 19

556 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,850

Nineteen monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-PWS-E, October 17, 2011, to the screening date, April 25, 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 \$2,850

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$142

Violation Final Penalty Total \$4,275

This violation Final Assessed Penalty (adjusted for limits) \$4,275

# Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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	\$776	17-Oct-2011	31-May-2014	2.62	\$7	\$136	\$142
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount to provide a total pump capacity of 2.0 gpm per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-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 \$776

**TOTAL** \$142

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(u) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.iii.

Violation Description Failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition. Specifically, Well Nos. 2, 3, and 5 were not plugged and had not been tested within the last five years to ensure that they were in a non-deteriorated condition.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to plug or test the abandoned well could expose customers of the Facility to contaminants which would exceed levels that are protective of human health or the environment.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 19 Number of violation days 556

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,850

Nineteen monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-PWS-E, October 17, 2011, to the screening date, April 25, 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 \$2,850

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,202

Violation Final Penalty Total \$4,275

This violation Final Assessed Penalty (adjusted for limits) \$4,275

# Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**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)	\$12,000	17-Oct-2011	31-May-2014	2.62	\$105	\$2,098	\$2,202
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 plug or test Well Nos. 2, 3 and 5 every five years to show they are in a non-deteriorated condition, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1295-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

\$12,000

**TOTAL**

\$2,202

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a pressure tank capacity of at least 20 gallons per connection. Specifically, at the time of the investigation conducted on March 4, 2013, it was documented that the Facility serves 88 potential service connections and is required to have 1,760 gallons of pressure tank capacity. However, the pressure tank at Well No. 1 was found to have collapsed, resulting in 1,325 gallons of pressure tank capacity, which is a 25% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Without adequate pressure tank capacity, customers of the Facility may 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 52 Number of violation days

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

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, March 4, 2013, to the screening date, April 25, 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 \$130

Violation Final Penalty Total \$75

This violation Final Assessed Penalty (adjusted for limits) \$75

# Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 6

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	\$1,500	4-Mar-2013	31-May-2014	1.24	\$6	\$124	\$130
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to provide the Facility with a total pressure tank capacity of 1,760 gallons, calculated from the date of the investigation to the estimated date of compliance.

### 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

\$1,500

**TOTAL**

\$130

Screening Date 25-Apr-2013

Docket No. 2013-0819-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 3 (September 2011)

Case ID No. 38136

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to obtain a sanitary control easement for all land within 150 feet of each of the Facility's wells.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to have a sanitary control easement in place could allow activities to occur next to the wells which could cause customers of the Facility to be exposed to insignificant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$970

\$30

Violation Events

Number of Violation Events 8

52 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$240

Eight single events are recommended, one for each well.

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 \$240

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$400

## Economic Benefit Worksheet

**Respondent** Virginia Franklin Fuller dba Franklin Water Systems 3  
**Case ID No.** 38136  
**Reg. Ent. Reference No.** RN101264372  
**Media** Public Water Supply  
**Violation No.** 7

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)	\$160	4-Mar-2013	31-Dec-2013	0.83	\$0	\$9	\$9
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 to record a sanitary control easement for the eight groundwater wells (\$20 per easement), calculated from the date of the investigation 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

\$160

**TOTAL**

\$9

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 CN601450232, RN101264372, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN601450232, Fuller, Virginia Franklin  
**Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101264372, Franklin Water Systems 3  
**Classification:** NOT APPLICABLE **Rating:** N/A

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

**CH Group:** 14 - Other

**Location:** 4813 Idalou, Lubbock, Lubbock County, Texas

**TCEQ Region:** REGION 02 - LUBBOCK

**ID Number(s):** **PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 1520080  
**WATER LICENSING LICENSE** 1520080

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

**Date Compliance History Report Prepared:** April 25, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 25, 2008 to April 25, 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:**

#### **1 Effective Date: 10/17/2011 ADMINORDER 2009-1295-PWS-E (Findings Order-Agreed Order Without Denial)**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)

Description: Failure to prevent livestock in pastures from being allowed within 50' of a water supply well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)

Description: Failure to meet the minimum required capacities.

Classification: Moderate

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

Description: Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non-deteriorated condition.

Classification: Moderate

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

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to initiate maintenance and housekeeping practice's to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, during an investigation conducted on October 27, 2008, the investigator observed a large flooded area in the alley adjacent to Well No. 2 as a result of a hose that had been connected directly to the discharge pipe of the well as an attempt to control leaks from the well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)

Description: Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to maintain all distribution system lines and all related appurtenances in a watertight condition.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702

Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: During a record review of Facility No. 3 conducted on October 20, 2009, a TCEQ Central Office investigator documented that Respondent failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Years 2005 through 2008.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702

Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: During a record review of Facility No. 1 conducted on October 20, 2009, a TCEQ Central Office investigator documented that Respondent failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 91520224 for Fiscal Years 2005 through 2008.

**2 Effective Date: 03/16/2013 ADMINORDER 2012-0171-PWS-E (Findings Order-Default)**

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: VOC MR YR 2008-This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2008 to 12/31/2008.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: VOC MR YR2007-This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2007 to 12/31/2007.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: SOC MR 3Y2010 - This system failed to monitor and/or failed to report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: SOC MR 3Y2007-This system failed to monitor and/or failed to report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2005 to 12/31/2007.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: MTL MR 3Y2007-This system failed to monitor and/or failed to report metal levels to the TCEQ for the triennial monitoring period from 01/01/2005 to 12/31/2007.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(e)  
Description: RAD MR YR2006-This system failed to monitor and/or failed to report radionuclide levels at EP004, EP006, and EP007 to the TCEQ for the annual monitoring period from 01/01/2006 to 12/31/2006.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 4Q 2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2008 to 12/31/2008.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 3Q 2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 07/01/2008 to 09/30/2008.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 2Q2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2008 to 06/30/2008.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 1Q2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2008 to 03/31/2008.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 4Q2007-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2007 to 12/31/2007.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 3Q2007-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 07/01/2007 to 09/30/2007.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 2Q2007-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2007 to 06/30/2007.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 4Q2006 - This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2006 to 12/31/2006.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 1Q2007 - This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2007 to 03/31/2007.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: VOC MR YR 2009 - This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: VOC MR YR 2010 - This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: MTL MR 3Y2010 -This system failed to monitor and/or failed to report metal levels to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(e)  
Description: RAD MR 3Y2009-This system failed to monitor and/or failed to report radionuclide levels at EP004, EP006, and EP007 to the TCEQ for the triennial monitoring period from 01/01/2007 to 12/31/2009.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(e)  
Description: RAD MR 3Y2008 - This system failed to monitor and/or failed to report radionuclide levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2006 to 12/31/2008.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 1Q2009-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2009 to 03/31/2009.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 2Q2009-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2009 to 06/30/2009.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 3Q2009-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 07/01/2009 to 09/30/2009.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 4Q2009-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2009 to 12/31/2009.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 1Q2010-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2010 to 03/31/2010.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 2Q2010-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2010 to 06/30/2010.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 3Q2010-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 07/01/2010 to 09/30/2010.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 4Q2010-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2010 to 12/31/2010.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 1Q2011-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2011 to 03/31/2011.

Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO3 MR 2Q2011-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2011 to 06/30/2011.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)  
Description: DBP MR YR2006-This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2006 to 12/31/2006.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)  
Description: DBP MR YR2007-This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2007 to 12/31/2007.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)  
Description: DBP MR YR2008 - This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2008 to 12/31/2008.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)  
Description: DBP MR YR2009 - This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)  
Description: DBP MR YR2010 - This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: NO32 MR 4Q2011 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the quarterly monitoring period from 10/01/2011 to 12/31/2011.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(1)  
30 TAC Chapter 290, SubChapter F 290.113(f)(2)  
Description: DBP MR YR2011 - This system failed to monitor and/or failed to report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2011 to 12/31/2011.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(2)  
30 TAC Chapter 290, SubChapter F 290.107(e)  
Description: VOC MR YR2011 - The system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2011 to 12/31/2011.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(3)  
30 TAC Chapter 290, SubChapter F 290.108(f)(4)  
Description: RAD MR 3Y2011 - The system failed to monitor and/or failed to report radionuclide levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: MIN MR 3Y2011 - The system failed to monitor and/or failed to report mineral levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: CYANIDE MR 6Y2011 - The system failed to monitor and/or failed to report cyanide levels to the TCEQ for the 6 year monitoring period from 01/01/2006 to 12/31/2011.

Classification: Minor  
Citation: 2A TWC Chapter 5, SubChapter A 5.702  
30 TAC Chapter 290, SubChapter D 290.51(a)(3)  
30 TAC Chapter 290, SubChapter D 290.51(a)(6)  
Description: Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Years 2003 through 2011.

**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.

N/A

**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  
VIRGINIA FRANKLIN FULLER  
D/B/A  
FRANKLIN WATER SYSTEMS 3;  
RN101264372**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2013-0819-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Virginia Franklin Fuller dba Franklin Water Systems 3 ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Timothy L. Vinson of the Law Office of Timothy L. Vinson, presented this Agreed Order to the Commission.

Respondent understands that she has certain procedural rights at certain points in the enforcement process, including 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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at 4813 Idalou Road in Lubbock, Lubbock County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 88 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted on March 4, 2013, a TCEQ Lubbock Regional Office investigator documented that Respondent:
  - a. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, the pressure tank at Well No.1 was found to have collapsed. The well and pressure tank had been taken offline, yet no maintenance measures to ensure the good working condition and general appearance of the water system were provided;

- b. Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well. Specifically, a horse was grazing in a pasture north of Well No. 1 and portions of the fence were erected within 30 feet of the well;
  - c. Failed to provide a minimum storage capacity of 200 gallons per connection. Specifically, the Facility's 88 service connections require a total storage capacity of at 17,600 gallons. However, there was no ground storage capacity, indicating a 100% deficiency;
  - d. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane. Specifically, the Facility's 88 service connections require a minimum service pump capacity of 176 gpm. However, there were no service pumps, indicating a 100% deficiency;
  - e. Failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition. Specifically, Well Nos. 2, 3, and 5 were not plugged and had not been tested within the last five years to ensure that they were in a non-deteriorated condition;
  - f. Failed to provide a pressure tank capacity of at least 20 gallons per connection. Specifically, the Facility serves 88 service connections and is required to have 1,760 gallons of pressure tank capacity. However, the pressure tank at Well No. 1 was found to have collapsed, resulting in 1,325 gallons of pressure tank capacity, which is a 25% deficiency; and
  - g. Failed to obtain a sanitary control easement for all land within 150 feet of each of the Facility's eight wells.
3. Respondent received notice of the violations on or about April 17, 2013.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(D) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.b.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide a minimum storage capacity of 200 gallons per connection, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii); and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.i.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii); and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.ii.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to plug abandoned wells or

- submit test results proving that the wells are in a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u) and TCEQ Agreed Order Docket No. 2009-1295-PWS-E, Ordering Provision No. 3.d.iii.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to provide a pressure tank capacity of at least 20 gallons per connection, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv).
  8. As evidenced by Finding of Fact No. 2.g., Respondent failed to obtain a sanitary control easement for all land within 150 feet of each of the Facility's wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
  9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ'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 thirteen thousand nine hundred dollars (\$13,900.00) 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. Respondent paid three hundred ninety dollars (\$390.00) of the administrative penalty. The remaining amount of thirteen thousand five hundred ten dollars (\$13,510.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred eighty-six dollars (\$386.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 10, above, 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 Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Virginia Franklin Fuller dba Franklin Water Systems 3, Docket No. 2013-0819-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
2. Respondent shall undertake the following technical requirements:
  - a. Within 60 days after the effective date of this Agreed Order, Respondent shall ensure that the livestock in pastures are not allowed within 50 feet of a water

supply well, in accordance with 30 TEX. ADMIN. CODE § 290.41 (Conclusion of Law No. 3).

- b. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.g., below, to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 90 days after the effective date of this Agreed Order, Respondent shall either obtain a sanitary control easement that covers the land within 150 feet of each of the Facility's wells, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain Commission approval of an exception to the easement requirement pursuant to 30 TEX. ADMIN. CODE § 290.39 (Conclusion of Law No. 8). The exception request shall be submitted to:
  - Technical Review & Oversight Team
  - Water Supply Division, MC 159
  - Texas Commission on Environmental Quality
  - P.O. Box 13087
  - Austin, Texas 78711-3087
- d. Within 105 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.g., below, to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 180 days after the effective date of this Agreed Order, Respondent shall:
  - i. Provide a minimum storage capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 4);
  - ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection at each pump station or pressure plane, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 5);
  - iii. Either plug all abandoned public water supply wells with cement according to 16 TEX. ADMIN. CODE § 76.104, or test the wells every five years or as required by the Executive Director to prove that they are in a non-deteriorated condition, including Well Nos. 2, 3, and 5, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 6);
  - iv. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility, including repairing or replacing the pressure tank at Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 1); and
  - v. Provide a pressure tank capacity of at least 20 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 7).
- f. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.g., below, to demonstrate compliance with Ordering Provisions Nos. 2.e.i. through 2.e.v.
- g. 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:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. 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 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. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 2.g., above.
6. This Agreed Order, issued by the Commission, shall not be admissible against 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 TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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 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.

10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Signature]*  
For the Executive Director

*January 5, 2015*  
Date

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

I also understand that failure to comply with the Ordering Provisions in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

*Virginia Franklin Fuller*  
Signature - Virginia Franklin Fuller

*October 1, 2014*  
Date