EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 36946
LAKE WHITNEY RESORTS, LLC
RN105215651
Docket No. 2014-0749-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:
255 Suncountry Drive, Whitney, Hill County

Type of Operation:
public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	$9,954.45 (2012-0022-PWS-E; referred for collection)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: January 16, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: $4,077

Total Paid to General Revenue: $122

Total Due to General Revenue: $3,955
Payment Plan: 35 payments of $113 each

Compliance History Classifications:
Person/CN – Satisfactory
Site/RN – Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: April 17, 2014; May 12 through May 23, 2014

Date(s) of NOV(s): November 25, 2013; March 17, 2014

Date(s) of NOE(s): May 23, 2014

Violation Information

1. Failed to provide the results of annual nitrate sampling to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to provide the results of annual nitrate sampling [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.122(c)(2)(A) and (f)].
2. Failed to collect nitrate samples and provide the results to the Executive Director [30 TEX. ADMIN. CODE § 290.106(c)(6) and (e)].
3. Failed to notify the wholesale systems within 24 hours of being notified of a coliform-positive distribution sample [30 TEX. ADMIN. CODE § 290.109(c)(4)(C)].
4. Failed to provide a purchase water contract that authorizes a maximum hourly purchase rate to meet a minimum production capacity of 2.0 gallons per minute ("gpm") per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less [30 TEX. ADMIN. CODE § 290.45(f)(5) and TCEQ Agreed Order Docket No. 2012-0022-PWS-E, Ordering Provision No. 2.a].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 10 days, implement procedures to ensure that all wholesale systems are notified within 24 hours of the Facility being notified of a coliform-positive distribution sample.
2. Within 25 days, submit written certification, to demonstrate compliance with Technical Requirement No. 1.
3. Within 30 days:
   a. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established;
   b. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical samples are taken and the results are released by the Facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later; and
   c. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility and a copy of the public notifications are submitted to the Executive Director, including providing public notification regarding the failure to provide the results of annual nitrate sampling to the Executive Director for the 2012 monitoring period.
4. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 3.a. through 3.c.
5. Within 180 days, provide a water purchase contract at each pressure plane that authorizes a hourly purchase rate to meet a service pump capacity of 2.0 gpm per connection or provide at least 1,000 gpm and meet peak hourly demands, whichever is less.
6. Within 195 days, submit written certification to demonstrate compliance with Technical Requirement No. 5.

Litigation Information

Date Petition(s) Filed: October 9, 2014

Date Answer Filed: October 30, 2014

Settlement Date: November 24, 2014

Contact Information

TCEQ Attorneys: Elizabeth Carroll Harkrider, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, (361) 825-3425

TCEQ Regional Contact: Richard Monreal, Waco Regional Office, (254) 751-0335

Respondent Contact: Paul S. Bissing, Director, LAKE WHITNEY RESORTS, LLC, 155 Country Club Road/102 Country Club Road, Whitney, Texas 76692

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014) *PCW Revision March 26, 2014*

DATES					
Assigned	27-May-2014				
PCW	1-Oct-2014	Screening	25-Jun-2014	EPA Due	31-Mar-2013

RESPONDENT/FACILITY INFORMATION			
Respondent	LAKE WHITNEY RESORTS, LLC		
Reg. Ent. Ref. No.	RN105215651		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36946	No. of Violations	4
Docket No.	2014-0749-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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* **$2,950**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **35.0%** Enhancement *Subtotals 2, 3, & 7* **$1,032**

Notes: Enhancement for two NOVs with the same/similar violations and one agreed order without 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 $941
Approx. Cost of Compliance $5,313

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$3,982**

OTHER FACTORS AS JUSTICE MAY REQUIRE **2.4%** *Adjustment* **$95**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount **$4,077**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$4,077**

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 **$4,077**

Screening Date	25-Jun-2014	**Docket No.**	2014-0749-PWS-E	**PCW**
Respondent	LAKE WHITNEY RESORTS, LLC			*Policy Revision 4 (April 2014)*
Case ID No.	36946			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105215651			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

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 (*number of NOVs meeting criteria*)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

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

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 35%

Screening Date	25-Jun-2014	**Docket No.** 2014-0749-PWS-E	**PCW**
Respondent	LAKE WHITNEY RESORTS, LLC		*Policy Revision 4 (April 2014)*
Case ID No.	36946		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105215651		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.106(e) and 290.122(c)(2)(A) and (f)

Violation Description Failed to provide the results of annual nitrate sampling to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to provide the results of annual nitrate sampling for the 2012 monitoring period.

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 requirements were not met.

Adjustment $950

$50

Violation Events

Number of Violation Events: 1 — 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $50

Economic Benefit (EB) for this violation

Estimated EB Amount $36

Statutory Limit Test

Violation Final Penalty Total $69

This violation Final Assessed Penalty (adjusted for limits) $69

Economic Benefit Worksheet

Respondent LAKE WHITNEY RESORTS, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$25	31-Dec-2012	1-Jan-2015	2.00	$0	$3	$4
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$100	12-May-2014	1-Jan-2015	0.64	$3	n/a	$3
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$100	12-May-2014	1-Jan-2015	0.64	$3	n/a	$3

Notes for DELAYED costs: The delayed cost includes the estimated amount to pay any outstanding lab fees ($25 for nitrates) so that the lab will release all drinking water chemical analysis results. The date required is the last date of the monitoring period for which results were not provided, and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample are taken and the results are released by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance. The other delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided and reported to the Executive Director in a timely manner. The date required is the record review date. The final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$25	1-Jan-2013	31-Mar-2013	1.16	$1	$25	$26
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs: The avoided cost includes the estimated amount to provide public notification ($25 per notification) of the failure to provide nitrate sample results, calculated for the period when public notification should have been provided.

Approx. Cost of Compliance $250

TOTAL $36

Screening Date	25-Jun-2014	**Docket No.**	2014-0749-PWS-E	**PCW**
Respondent	LAKE WHITNEY RESORTS, LLC			*Policy Revision 4 (April 2014)*
Case ID No.	36946			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105215651			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.106(c)(6) and (e)

Violation Description Failed to collect nitrate samples and provide the results to the Executive Director for the 2011 and 2013 monitoring periods.

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 collect nitrate samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events: 2 | 730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $300

Two annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $300

Economic Benefit (EB) for this violation

Estimated EB Amount $39

Statutory Limit Test

Violation Final Penalty Total $415

This violation Final Assessed Penalty (adjusted for limits) $415

Economic Benefit Worksheet

Respondent LAKE WHITNEY RESORTS, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	The delayed costs for this violation are associated with the economic benefit for Violation No. 1.						
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]	$33	1-Jan-2011	31-Dec-2013	3.92	$6	$33	$39
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided cost includes the estimated amount to collect and have analyzed chemical analysis samples ($25 for nitrate x 1 monitoring periods and $8 for nitrate x 1 monitoring period), calculated for the periods when samples were required.						

Approx. Cost of Compliance $33

TOTAL $39

Screening Date	25-Jun-2014	**Docket No.**	2014-0749-PWS-E	**PCW**
Respondent	LAKE WHITNEY RESORTS, LLC			*Policy Revision 4 (April 2014)*
Case ID No.	36946			*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105215651			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(4)(C)

Violation Description Failed to notify the wholesale systems within 24 hours of being notified of a coliform positive distribution sample. Specifically, the Respondent did not notify its wholesalers within 24 hours of being notified of a coliform-positive sample for the month of September 2012.

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 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $50

Economic Benefit (EB) for this violation

Estimated EB Amount $30

Statutory Limit Test

Violation Final Penalty Total $69

This violation Final Assessed Penalty (adjusted for limits) $69

Economic Benefit Worksheet

Respondent LAKE WHITNEY RESORTS, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/Construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/Equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$30	26-Sep-2012	27-Sep-2012	0.00	$0	$30	$30
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	The avoided cost includes the estimated amount to notify the wholesalers within 24 hours of being notified of a coliform-positive sample, calculated for the 24-hour period after the coliform-positive result.						

Approx. Cost of Compliance $30

TOTAL $30

Screening Date	25-Jun-2014	**Docket No.** 2014-0749-PWS-E	**PCW**
Respondent	LAKE WHITNEY RESORTS, LLC		*Policy Revision 4 (April 2014)*
Case ID No.	36946		*PCW Revision March 26, 2014*
Reg. Ent. Reference No.	RN105215651		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.45(f)(5), and TCEQ Agreed Order Docket No. 2012-0022-PWS-E, Ordering Provision No. 2.a.

Violation Description Failed to provide a purchase water contract that authorizes a maximum hourly purchase rate to meet a minimum production capacity of 2.0 gallons per minute ("gpm") per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less. Specifically, on April 17, 2014, it was documented that the water purchase contract between the Respondent and Hilco United Services (Cedar Creek Water Supply Corporation) (Pressure Plane No. 1) provided a maximum of 27.3 gpm while the required capacity is 160 gpm, which is a 83% deficiency. In addition, it was documented that the water purchase contract between the Respondent and Hill County Water Supply Corporation (Pressure Plane No. 2) provided a maximum of 20 gpm, while the required capacity is 214 gpm which is a 91% 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 have sufficient water purchase contract could result in customers not being provided with an adequate supply of water. As a result, customers could be exposed to contaminants that would exceed levels protective of human health.

Adjustment $850

$150

Violation Events

Number of Violation Events: 17

500 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,550

Seventeen monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2012-0022-PWS-E, February 10, 2013, to the screening date, June 25, 2014.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $2,550

Economic Benefit (EB) for this violation

Estimated EB Amount $835

Statutory Limit Test

Violation Final Penalty Total $3,525

This violation Final Assessed Penalty (adjusted for limits) $3,525

Economic Benefit Worksheet

Respondent LAKE WHITNEY RESORTS, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$5,000	10-Feb-2013	1-Jul-2015	2.39	$40	$795	$835
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 obtain one or more purchase water contracts to meet the necessary authorized purchase rate of 2.0 gpm per connection for service pump capacity, calculated from the effective date of TCEQ Agreed Order Docket No. 2012-0022-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 $835

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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 CN603182981, RN105215651, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603182981, LAKE WHITNEY RESORTS, LLC **Classification:** SATISFACTORY **Rating:** 2.49

Regulated Entity: RN105215651, LAKE WHITNEY RV & GOLF **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 255 SUNCOUNTRY DRIVE, NEAR WHITNEY, HILL COUNTRY TX
TCEQ Region: REGION 09 - WACO
ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1090075
Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013
Date Compliance History Report Prepared: June 25, 2014
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: June 25, 2009 to June 25, 2014
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Epi Villarreal **Phone:** (361) 825-3425

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period? YES
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3) If YES for #2, who is the current owner/operator? N/A
4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
5) If YES, when did the change(s) in owner or operator occur? N/A

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

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

1 Effective Date: 02/10/2013 ADMINORDER 2012-0022-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failed to provide an up-to-date map of the distribution system.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted.
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)
30 TAC Chapter 290, SubChapter D 290.45(f)(5)
Rqmt Prov: OP 2.d ORDER
Description: Failed to provide a purchase water contract that authorizes a maximum hourly purchase rate to meet a minimum production capacity of 2.0 gpm per connection or provide at least 1,000 gpm and be able to meet peak hourly demand

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

1 Date: 11/25/2013 (1170592) CN603182981
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
Description: NO3 MR YR2012 - The system failed to monitor and/or report nitrate levels to the TCEQ for the annual monitoring period from 01/01/2012 to 12/31/2012 within the required timeline.

2 Date: 03/17/2014 (1170592) CN603182981
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: NO3 MR PN YR2012 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a nitrate monitoring and reporting violation for the annual monitoring period from 01/01/2012 to 12/31/2012.

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 LAKE WHITNEY RESORTS, LLC; RN105215651	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-0749-PWS-E

At its _____agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LAKE WHITNEY RESORTS, LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this 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 255 Suncountry Drive near Whitney, Hill County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 187 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 April 17, 2014, and a record review conducted May 12, 2014 through May 23, 2014, an investigator documented that Respondent:

   a. Failed to provide the results of annual nitrate sampling to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to provide the results of annual nitrate sampling for the 2012 monitoring period.

   b. Failed to collect nitrate samples and provide the results to the Executive Director for the 2011 and 2013 monitoring periods.

   c. Failed to notify the wholesale systems within 24 hours of being notified of a coliform-positive distribution sample. Specifically, Respondent did not notify its wholesalers within 24 hours of being notified of a coliform-positive sample for the month of September 2012.

d. Failed to provide a purchase water contract that authorizes a maximum hourly purchase rate to meet a minimum production capacity of 2.0 gallons per minute ("gpm") per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less. Specifically, on April 17, 2014, the water purchase contract between Respondent and Hilco United Services (Cedar Creek Water Supply Corporation) (Pressure Plane No. 1) provided a maximum of 27.3 gpm while the required capacity is 160 gpm, which is an 83% deficiency. In addition, the water purchase contract between Respondent and Hill County Water Supply Corporation (Pressure Plane No. 2) provided a maximum of 20 gpm while the required capacity is 214 gpm, which is a 91% deficiency.

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 provide the results of annual nitrate sampling to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to provide the results of annual nitrate sampling, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.122(c)(2)(A) and (f).

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect nitrate samples and provide the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(c)(6) and (e).

4. As evidenced by Finding of Fact No. 2.c., Respondent failed to notify the wholesale systems within 24 hours of being notified of a coliform-positive distribution sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(C).

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide a purchase water contract that authorizes a maximum hourly purchase rate to meet a minimum production capacity of 2.0 gpm per connection or provide at least 1,000 gpm and be able to meet peak hourly demands, whichever is less, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(5) and TCEQ Agreed Order Docket No. 2012-0022-PWS-E, Ordering Provision No. 2.a.

6. 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.

7. An administrative penalty in the amount of four thousand seventy-seven dollars ($4,077.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid one hundred twenty-two dollars ($122.00) of the administrative penalty. The remaining amount of three thousand nine hundred fifty-five dollars ($3,955.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred thirteen dollars ($113.00) each. The first monthly payment shall be paid within 30 days after the effective date of this 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 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 Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this 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. 7 for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order resolve only the matters set forth by this 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: LAKE WHITNEY RESORTS, LLC, Docket No. 2014-0749-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 10 days after the effective date of this Order, implement procedures to ensure that all wholesale systems are notified within 24 hours of the Facility being notified of a coliform-positive distribution sample, in accordance with 30 TEX. ADMIN. CODE § 290.109.

   b. Within 25 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.g., to demonstrate compliance with Ordering Provision No. 2.a.

   c. Within 30 days after the effective date of this Order:

      i. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants);

      ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical samples are taken and the results are released by the Facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants); and

      iii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility and a copy of the public notifications are submitted to the Executive Director, including providing public notification regarding the failure to provide the results of annual nitrate sampling to the Executive Director for the 2012 monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.122.

d. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.g., to demonstrate compliance with Ordering Provisions Nos. 2.c.i. through 2.c.iii.

e. Within 180 days after the effective date of this Order, provide a water purchase contract at each pressure plane that authorizes a hourly purchase rate to meet a service pump capacity of 2.0 gpm per connection or provide at least 1,000 gpm and meet peak hourly demands, whichever is less, in accordance with 30 TEX. ADMIN. CODE § 290.45.

f. Within 195 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.g., to demonstrate compliance with Ordering Provision No. 2.e.

g. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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 fines and imprisonment for knowing violations."

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

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

and:

Section Manager, Public Drinking Water Section
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 Order is denied.

4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.

6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this 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. The Executive Director may, without further notice or hearing, refer this matter to the 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 Order.

7. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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 Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ _____
For the Executive Director Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached 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 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.

_____ 11-24-14
Signature - Paul S. Bissing, Director Date
LAKE WHITNEY RESORTS, LLC
155 Country Club Road
Whitney, Texas 76692

☐ *If mailing address has changed, please check this box and provide the new address below:*

_____