

Executive Summary – Enforcement Matter – Case No. 49658

City of Haskell

RN101429561

Docket No. 2014-1709-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Haskell PWS, located at the intersection of Avenue D and South Second Street, Haskell, Haskell County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 3, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,326

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,326

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 49658
City of Haskell
RN101429561
Docket No. 2014-1709-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 20, 2014

Date(s) of NOE(s): October 31, 2014

Violation Information

1. Failed to timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director ("ED") each quarter by the tenth day of the month following the end of the quarter and failed to provide public notifications and submit copies of the public notifications to the ED regarding the failure to submit DLQORs [30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f)].
2. Failed to collect lead and copper samples at the required twenty sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the ED [30 TEX. ADMIN. CODE § 290.117(c)(2)(B) and (i)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On December 18, 2014, the Respondent provided the DLQORs for the first quarter of 2013 through the second quarter of 2014.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the ED within ten days following the end of each monitoring period;
 - ii. Implement procedures to ensure that all necessary public notifications are posted in a timely manner to persons served by the Facility and a copy is submitted to the ED, including but not limited to providing public notification regarding the failure to submit DLQORs; and
 - iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs.
- b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions a.i. through a.iii.
- c. Within 90 days:

Executive Summary – Enforcement Matter – Case No. 49658

City of Haskell

RN101429561

Docket No. 2014-1709-PWS-E

- i. Begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the ED within ten days of the month following the end of the monitoring period. This provision will be satisfied upon one compliant monitoring period; and
- ii. Begin submitting DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.
- d. Within 285 days, submit written certification to demonstrate compliance with Ordering Provision c.ii.
- e. Within 470 days, submit written certification to demonstrate compliance with Ordering Provision c.i.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Lisa Westbrook, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1160; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable John Gannaway, Mayor, City of Haskell, P.O. Box 1003, Haskell, Texas 79521

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	3-Nov-2014	Screening	13-Nov-2014	EPA Due	31-Dec-2014
	PCW	29-Jan-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Haskell
Reg. Ent. Ref. No.	RN101429561
Facility/Site Region	3-Abilene
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	49658	No. of Violations	2
Docket No.	2014-1709-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lisa Westbrook
		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	\$1,020
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0% Enhancement	Subtotals 2, 3, & 7	\$306
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Notes: Enhancement for six NOVs with the same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,424
 Estimated Cost of Compliance: \$1,752
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,326
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,326

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,326
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DEFERRAL	0.0% Reduction	Adjustment	\$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.

PAYABLE PENALTY	\$1,326
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Screening Date 13-Nov-2014

Docket No. 2014-1709-PWS-E

PCW

Respondent City of Haskell

Policy Revision 4 (April 2014)

Case ID No. 49658

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101429561

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

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>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments 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) 30%

>> Repeat Violator (Subtotal 3)

No

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 six NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 13-Nov-2014

Docket No. 2014-1709-PWS-E

PCW

Respondent City of Haskell

Policy Revision 4 (April 2014)

Case ID No. 49658

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101429561

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f)

Violation Description

Failed to timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter for the first quarter of 2013 through the second quarter of 2014 and failed to provide public notifications and submit copies of the public notifications to the Executive Director regarding the failure to submit a DLQOR for the third quarter of 2013, the fourth quarter of 2013 and the first quarter of 2014.

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 7.0%

Matrix Notes

Between 30% to 70% of the rule requirements were not met.

Adjustment \$930

\$70

Violation Events

Number of Violation Events 6

556 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$420

Six single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$420

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$546

This violation Final Assessed Penalty (adjusted for limits) \$546

Economic Benefit Worksheet

Respondent City of Haskell
Case ID No. 49658
Req. Ent. Reference No. RN101429561
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$45	20-Oct-2014	31-Jul-2015	0.78	\$2	n/a	\$2
Training/Sampling	\$100	20-Oct-2014	31-Jul-2015	0.78	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Other (as needed)	\$132	10-Apr-2013	18-Dec-2014	1.69	\$11	n/a	\$11
Other (as needed)	\$100	20-Oct-2014	31-Jul-2015	0.78	\$4	n/a	\$4

Notes for DELAYED costs

The record keeping system and training/sampling delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that the self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs, calculated from the record review date to the estimated date of compliance. The other delayed cost includes the estimated amount to prepare and submit DLQORs (\$22 per report x six missed reports), calculated from the date the first report was due to the date the reports were submitted. The other delayed cost includes the estimated amount to implement procedures to ensure that all necessary public notifications are provided in a timely manner, calculated from the date of the record review 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)	\$75	11-Oct-2013	10-Jul-2014	1.66	\$6	\$75	\$81

Notes for AVOIDED costs

The other avoided costs includes the estimated amount to provide public notification (\$25 per notification x three notifications), calculated for the period in which the public notifications were required.

Approx. Cost of Compliance

\$452

TOTAL

\$102

Screening Date 13-Nov-2014

Docket No. 2014-1709-PWS-E

PCW

Respondent City of Haskell

Policy Revision 4 (April 2014)

Case ID No. 49658

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101429561

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.117(c)(2)(B) and (l)(1)

Violation Description

Failed to collect lead and copper samples at the required twenty sample sites, have the samples analyzed at an TCEQ approved laboratory, and submit the results to the Executive Director for the 2013 and 2014 monitoring periods.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$700

\$300

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 \$600

Two annual events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,322

Violation Final Penalty Total \$780

This violation Final Assessed Penalty (adjusted for limits) \$780

Economic Benefit Worksheet

Respondent City of Haskell
Case ID No. 49658
Reg. Ent. Reference No. RN101429561
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	20-Oct-2014	30-Jun-2015	0.69	\$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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The record keeping system delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel, analyzed 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.

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]	\$600	1-Jan-2013	31-Dec-2013	1.92	\$57	\$600	\$657
Other (as needed)	\$600	1-Jan-2014	31-Dec-2014	1.92	\$57	\$600	\$657

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect and have all lead and copper samples analyzed (((\$30 per sample x 20 samples) x two monitoring periods), calculated for the monitoring periods in which the samples were required.

Approx. Cost of Compliance

\$1,300

TOTAL

\$1,322

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.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600249742, RN101429561, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600249742, CITY OF HASKELL **Classification:** SATISFACTORY **Rating:** 3.56

Regulated Entity: RN101429561, CITY OF HASKELL **Classification:** HIGH **Rating:** 0.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: INTERSECTION OF AVENUE D AND SOUTH SECOND STREET IN HASKELL, HASKELL COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1040001

SLUDGE REGISTRATION 22120

WATER LICENSING LICENSE 1040001

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: November 13, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 13, 2009 to November 13, 2014

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

Name: Lisa Westbrook

Phone: (512) 239-1160

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

Description: 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
DLQOR MR 2Q2014 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the second quarter of 2014 within the required timeline.

6 Date: 10/28/2014 (1204423) CN600249742
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 1Q2014 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 disinfectant monitoring and reporting violation during the first quarter of 2014.

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

required timeline.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 3Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the third quarter of 2013 within the required timeline.

5* Date: 07/02/2014 (1204423) CN600249742

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 1Q2014 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the first quarter of 2014 within the required timeline.

6 Date: 09/11/2014 (1204423) CN600249742

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: DLQOR MR PN 4Q2013 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 disinfectant monitoring and reporting violation during the fourth quarter of 2013.

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: DLQOR MR PN 3Q2013 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 disinfectant monitoring and reporting violation during the third quarter of 2013.

7 Date: 10/23/2014 (1204423) CN600249742

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 2Q2014 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the second quarter of 2014 within the required timeline.

8 Date: 10/28/2014 (1204423) CN600249742

Classification: Moderate

Self Report? NO

For Informational Purposes Only

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: DLQOR MR PN 1Q2014 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 disinfectant monitoring and reporting violation during the first quarter of 2014.

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period November 13, 2009 and November 13, 2014

Item 1	November 16, 2011**	(965154) For Informational Purposes Only
Item 2	January 13, 2012**	(977036) For Informational Purposes Only
Item 3	March 29, 2012**	(994983) For Informational Purposes Only
Item 4	January 31, 2013**	(1053936) For Informational Purposes Only
Item 5	October 29, 2014	(1204423) For Informational Purposes Only
Item 6	October 31, 2014	(1204734) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HASKELL
RN101429561**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-1709-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Haskell (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at the intersection of Avenue D and South Second Street in Haskell, Haskell County, Texas (the "Facility") that has approximately 1,416 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from October 20, 2014 through October 31, 2014, TCEQ staff documented that the Respondent did not timely submit Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director for the first quarter of 2013 through the second quarter of 2014 and the Respondent did not provide public notifications or submit copies of the public notifications to the Executive Director regarding the failure to submit DLQORs for the third quarter of 2013, the fourth quarter of 2013 and the first quarter of 2014.
3. During a record review conducted from October 20, 2014 through October 31, 2014, TCEQ staff documented that the Respondent did not collect lead and copper samples for the 2013 and 2014 monitoring periods.
4. The Respondent received notice of the violations on November 5, 2014.
5. The Executive Director recognizes that on December 18, 2014, the Respondent provided the DLQORs for the first quarter of 2013 through the second quarter of 2014.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter and failed to provide public notifications and submit copies of the public notifications to the Executive Director regarding the failure to submit DLQORs, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect lead and copper samples at the required twenty sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(B) and (i)(1).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Three Hundred Twenty-Six Dollars (\$1,326) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Three Hundred Twenty-Six Dollar (\$1,326) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Three Hundred Twenty-Six Dollars (\$1,326) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Haskell, Docket No. 2014-1709-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117;
 - ii. Implement procedures to ensure that all necessary public notifications are posted in a timely manner to persons served by the Facility and a copy is submitted to the Executive Director, including but not limited to providing public notification regarding the failure to submit DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii.;
- c. Within 90 days after the effective date of this Agreed Order:
 - i. Begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon one compliant monitoring period; and
 - ii. Begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- d. Within 285 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.ii.; and
- e. Within 470 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.i. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Perm. Review J
For the Executive Director

6/5/15
Date

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

I understand that by entering into this Agreed Order, the City of Haskell waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

John Gannaway
Signature

March 2, 2015
Date

John Gannaway
Name (Printed or typed)
Authorized Representative of
City of Haskell

Mayor

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.