

Executive Summary – Enforcement Matter – Case No. 49232
Port of Houston Authority
RN100637362
Docket No. 2014-1252-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:

Barbours Cut Terminal, 1819 East Barbours Cut Boulevard, La Porte, Harris 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: January 30, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$595

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$595

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: \$194

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 28, 2014 through August 15, 2014

Date(s) of NOE(s): August 15, 2014

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Violation Information

1. Failed to timely notify the wholesale system within 24 hours of being notified of a coliform-positive distribution sample [30 TEX. ADMIN. CODE § 290.109(c)(4)(C)].
2. Failed to comply with the maximum contaminant level for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
3. Failed to timely post public notification and submit a copy of the public notification to the Executive Director ("ED") regarding the failure to conduct routine coliform monitoring [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. On September 4, 2014, posted public notification and submitted a copy of the public notification to the ED regarding the failure to conduct coliform monitoring during the months of June, July, and August 2012 and September 2013; and
- b. On September 9, 2014, submitted documentation demonstrating that they notified the wholesale system of the coliform-positive distribution sample for the month of November 2013.

Technical Requirements:

The Order will also require the Respondent to:

- a. Within 30 days:
 - i. Begin complying with applicable coliform monitoring requirements by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
 - ii. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is provided to the ED.
- b. Within 45 days, submit written certification to demonstrate compliance with a.ii.
- c. Within 225 days, submit written certification to demonstrate compliance with a.i.

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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: Roger Guenther, Executive Director, Port of Houston Authority, P.O.
Box 2562, Houston, Texas 77252
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	18-Aug-2014	Screening	26-Aug-2014	EPA Due	31-Dec-2014
	PCW	16-Oct-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Port of Houston Authority				
Reg. Ent. Ref. No.	RN100637362				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	49232	No. of Violations	3
Docket No.	2014-1252-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	\$350
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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	15.0% Enhancement	Subtotals 2, 3, & 7	\$52
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Notes: Enhancement for three 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	-\$1
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$112
Estimated Cost of Compliance	\$235

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$401
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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 \$401

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$595
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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	\$595
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Screening Date 26-Aug-2014

Docket No. 2014-1252-PWS-E

PCW

Respondent Port of Houston Authority

Policy Revision 4 (April 2014)

Case ID No. 49232

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100637362

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>)	3	15%
	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) 15%

>> **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 three NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 15%

Screening Date 26-Aug-2014

Docket No. 2014-1252-PWS-E

PCW

Respondent Port of Houston Authority

Policy Revision 4 (April 2014)

Case ID No. 49232

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100637362

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

Violation Number 1

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

Violation Description Failed to timely notify the wholesale system within 24 hours of being notified of a coliform-positive distribution sample for the month of November 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (1.0%).

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

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 Number of violation days 1

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$1

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent achieved compliance on September 9, 2014.

Violation Subtotal \$9

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$11

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

Economic Benefit Worksheet

Respondent Port of Houston Authority
Case ID No. 49232
Reg. Ent. Reference No. RN100637362
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)				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)	\$15	7-Nov-2013	9-Sep-2014	0.84	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to notify the wholesaler within 24 hours of being notified of a coliform-positive sample, calculated from the date the notification was required to the 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

\$15

TOTAL

\$1

Screening Date 26-Aug-2014
Respondent Port of Houston Authority
Case ID No. 49232
Reg. Ent. Reference No. RN100637362
Media [Statute] Public Water Supply
Enf. Coordinator Lisa Westbrook

Docket No. 2014-1252-PWS-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(3) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the maximum contaminant level ("MCL") for total coliform during the months of July and August 2014.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		<input type="text" value="15.0%"/>
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					<input type="text" value="0.0%"/>

Matrix Notes As a result of the exceedance, persons served by the Facility have been exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	X
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Port of Houston Authority
Case ID No. 49232
Reg. Ent. Reference No. RN100637362
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)				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]	\$100	1-Jul-2014	31-Aug-2014	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary for additional sampling and oversight that could have prevented the exceedances, calculated for the months in which the exceedances occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date 26-Aug-2014
Respondent Port of Houston Authority
Case ID No. 49232
Reg. Ent. Reference No. RN100637362
Media [Statute] Public Water Supply
Enf. Coordinator Lisa Westbrook

Docket No. 2014-1252-PWS-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description Failed to timely post public notification and submit a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of June, July, and August 2012 and September 2013.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Port of Houston Authority
Case ID No. 49232
Reg. Ent. Reference No. RN100637362
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

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	\$100	28-Jul-2014	31-Mar-2015	0.67	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20	1-Jul-2012	4-Sep-2014	2.18	\$2	n/a	\$2

Notes for DELAYED costs

The training/sampling delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that all public notifications are provided, calculated from the record review to the estimated date of compliance. The other delayed cost includes the estimated amount to post public notification (\$5 per notification x four notifications), calculated from the date the first public notice was required to the date the public notifications were submitted.

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

\$120

TOTAL

\$6

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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 CN600134324, RN100637362, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600134324, Port of Houston Authority **Classification:** SATISFACTORY **Rating:** 2.36

Regulated Entity: RN100637362, BARBOURS CUT TERMINAL **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1819 EAST BARBOURS CUT BOULEVARD LA PORTE, HARRIS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 1344 PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1013230

STORMWATER PERMIT TXR05U677 INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD008107914

INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST 37259

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: August 25, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 25, 2009 to August 25, 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.

All Investigations Conducted During Component Period August 25, 2009 and August 25, 2014

(1187273)

Item 1 August 13, 2014 For Informational Purposes Only

(1190418)

Item 2 August 15, 2014 For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PORT OF HOUSTON AUTHORITY
RN100637362**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-1252-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 Port of Houston Authority (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 1819 East Barbours Cut Boulevard in La Porte, Harris County, Texas (the "Facility") that has approximately six service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from July 28, 2014 through August 15, 2014, TCEQ staff documented that the Respondent did not timely notify the wholesaler within 24 hours of being notified of a coliform-positive distribution sample for the month of November 2013.
3. During a record review conducted from July 28, 2014 through August 15, 2014, TCEQ staff documented that the Respondent exceeded the maximum contaminant level ("MCL") for total coliform in July and August 2014.
4. During a record review conducted from July 28, 2014 through August 15, 2014, TCEQ staff documented that the Respondent did not timely post public notification and submit a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of June, July, and August 2012 and September 2013.
5. The Respondent received notice of the violations on August 25, 2014.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On September 4, 2014, the Respondent posted public notification and submitted a copy of the public notification to the Executive Director regarding the failure to conduct coliform monitoring during the months of June, July, and August 2012 and September 2013.
 - b. On September 9, 2014, the Respondent submitted documentation demonstrating that they notified the wholesale system of the coliform-positive distribution sample for the month of November 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE CH. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to timely notify the wholesale system within 24 hours of being notified of a coliform-positive distribution sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(C).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to timely post public notification and submit a copy of the public notification to the Executive Director

regarding the failure to conduct routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Five Hundred Ninety-Five Dollars (\$595) 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 Five Hundred Ninety-Five Dollar (\$595) 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 Five Hundred Ninety-Five Dollars (\$595) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Port of Houston Authority, Docket No. 2014-1252-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. Begin complying with applicable coliform monitoring requirements by providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and

- ii. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is provided to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.c. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii.
- c. Within 225 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.a.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

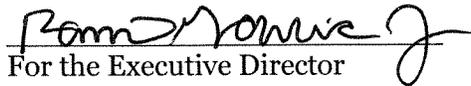
- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

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


For the Executive Director

7/17/15
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Port of Houston Authority. I am authorized to agree to the attached Agreed Order on behalf of Port of Houston Authority, 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, Port of Houston Authority waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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


Signature RG
CJ

11/24/14
Date

Roger Guenther

Name (Printed or typed)
Authorized Representative of
Port of Houston Authority

Executive Director

Title

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