

Executive Summary – Enforcement Matter – Case No. 50844
WTR Real Estate Holdings, L.C. dba Heartland House
RN107135956
Docket No. 2015-1082-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Heartland House, 2605 North County Road 1700 near Lubbock, Lubbock 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: October 9, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$585

Amount Deferred for Naturally Occurring Inorganic Contaminants: \$585

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

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 - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 29, 2015 through July 10, 2015

Date(s) of NOE(s): July 10, 2015

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Violation Information

1. Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
2. Failed to comply with the MCL of 0.05 milligrams per liter for selenium based on the running annual average [30 TEX. ADMIN. CODE § 290.106(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 120 days, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the acute MCL for nitrate and the MCL for selenium. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study.
- b. Within 135 days, submit written certification to demonstrate compliance with a.
- c. Within 180 days, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology.
- d. Within 180 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the acute MCL for nitrate and the MCL for selenium.
- e. Within 195 days, submit written certification to demonstrate compliance with c.
- f. Within 1,095 days:
- i. Return to compliance with the acute MCL for nitrate; and

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ii. Return to compliance with the MCL for selenium, based on the running annual average.

g. Within 1,110 days, submit written certification to demonstrate compliance with f.

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: Michaelle Garza, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4076; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Kristi Townsen, Administrator, Heartland House, 2605 North County
Road 1700, Lubbock, Texas 79416-9627

Stewart Townsen, President, WTR Real Estate Holdings, L.C., 2605 North County Road
1700, Lubbock, Texas 79416-9627

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	13-Jul-2015	Screening	14-Jul-2015	EPA Due	30-Sep-2015
	PCW	14-Jul-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	WTR Real Estate Holdings, L.C. dba Heartland House
Reg. Ent. Ref. No.	RN107135956
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	2
Enf./Case ID No.	50844	Order Type	Findings
Docket No.	2015-1082-PWS-E	Government/Non-Profit	No
Media Program(s)	Public Water Supply	Enf. Coordinator	Michaelle Garza
Multi-Media		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	\$450
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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	\$135
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Notes

Enhancement for two NOV's with the same/similar violations and one agreed order containing a denial of liability.

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	\$10,763
Estimated Cost of Compliance	\$40,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$585
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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	\$585
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$585
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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	\$585
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Screening Date 14-Jul-2015 **Docket No.** 2015-1082-PWS-E
Respondent WTR Real Estate Holdings, L.C. dba Heartland House
Case ID No. 50844
Reg. Ent. Reference No. RN107135956
Media [Statute] Public Water Supply
Enf. Coordinator Michaëlle Garza

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

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with the same/similar violations and one agreed order containing a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 14-Jul-2015

Docket No. 2015-1082-PWS-E

PCW

Respondent WTR Real Estate Holdings, L.C. dba Heartland House

Policy Revision 4 (April 2014)

Case ID No. 50844

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107135956

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(2) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the acute maximum contaminant level ("MCL") of 10 milligrams per liter ("mg/L") for nitrate. Specifically, the single sample concentration for nitrate was 18 mg/L for the second quarter of 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Exceeding the acute MCL for nitrate caused persons served by the Facility to be exposed to pollutants which exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1 90 Number of violation days

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

Violation Base Penalty \$300

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10,763

Violation Final Penalty Total \$390

This violation Final Assessed Penalty (adjusted for limits) \$390

Economic Benefit Worksheet

Respondent WTR Real Estate Holdings, L.C. dba Heartland House
Case ID No. 50844
Reg. Ent. Reference No. RN107135956
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)	\$40,000	31-Mar-2015	1-Feb-2019	3.84	\$513	\$10,250	\$10,763
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 investigate, identify, and implement the necessary corrective actions to return to compliance with the acute MCL for nitrate and the MCL for selenium, calculated from the last date of the first quarter of noncompliance 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

\$40,000

TOTAL

\$10,763

Screening Date 14-Jul-2015

Docket No. 2015-1082-PWS-E

PCW

Respondent WTR Real Estate Holdings, L.C. dba Heartland House

Policy Revision 4 (April 2014)

Case ID No. 50844

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107135956

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(3) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the MCL of 0.05 mg/L for selenium based on the running annual average. Specifically, the running annual average concentration for selenium was 0.06 mg/L for the first quarter of 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Exceeding the MCL for selenium based on the running annual average caused persons served by the Facility to be exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

89 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$150

One annual event is 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$195

This violation Final Assessed Penalty (adjusted for limits) \$195

Economic Benefit Worksheet

Respondent WTR Real Estate Holdings, L.C. dba Heartland House
Case ID No. 50844
Reg. Ent. Reference No. RN107135956
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

The delayed costs are captured in the economic benefit associated with 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN604532770, RN107135956, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604532770, WTR Real Estate Holdings, L.C. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN107135956, HEARTLAND HOUSE **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 2605 NORTH COUNTY ROAD 1700 NEAR LUBBOCK, LUBBOCK COUNTY, TEXAS

TCEQ Region: REGION 02 - LUBBOCK

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520292

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

Date Compliance History Report Prepared: July 14, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 14, 2010 to July 14, 2015

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

Name: Michaelle Garza

Phone: (210) 403-4076

Site and Owner/Operator History:

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

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

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

1 Effective Date: 06/25/2015 ADMINORDER 2014-0981-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)

30 TAC Chapter 290, SubChapter D 290.39(h)(1)

5A THSC Chapter 341, SubChapter A 341.035(a)

Description: Failed to submit plans and specifications for the Facility to the Executive Director for review and approval prior to the establishment of a new public water supply.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(1)

30 TAC Chapter 290, SubChapter D 290.42(e)(3)

Description: Failed to provide disinfection facilities for all groundwater supplies for the purpose of microbiological control and distribution protection. Specifically, there was no disinfection equipment installed at the Facility.

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a pressure tank capacity of 50 gallons per connection. Specifically, with 20 connections the Facility is required to provide a minimum pressure tank capacity of 1,000 gallons. However, only 86 gallons were provided which is a 91% deficiency.

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.033(a)

Description: Failed to operate the Facility under the direct supervision of a licensed water works operator who holds a

Class "D" or higher license.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failed to provide the well with a concrete sealing block that extends a minimum of three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inches per foot.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failed to provide a well casing vent that has an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well. Specifically, no casing vent was installed on the well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failed to provide each well with a flow measuring device to measure production yields and provide for the accumulation of water production data.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failed to protect the well with an intruder-resistant fence with a lockable gate or enclose the well in a locked and ventilated well house.

Classification: Moderate

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

Description: Failed to obtain a sanitary control easement that covers the land within 150 feet of the Facility's well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(I)

Description: Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

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: | 05/04/2015 (1261299) | CN604532770 |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | |
| | Description: | SEL MCL 1Q2015 - During the first quarter of 2015 the system violated the maximum contaminant level for SEL with a RAA of 0.06 mg/L. | |
| 2 | Date: | 06/25/2015 (1261299) | CN604532770 |
| | Self Report? | NO | Classification: Major |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.106(f)(2) | |
| | Description: | NO3 AMCL 2Q2015 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 18 mg/L collected on 06/22/2015. | |

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
WTR REAL ESTATE HOLDINGS, L.C.	§	
DBA HEARTLAND HOUSE	§	ENVIRONMENTAL QUALITY
RN107135956	§	

AGREED ORDER
DOCKET NO. 2015-1082-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 WTR Real Estate Holdings, L.C. dba Heartland House (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 2605 North County Road 1700 near Lubbock, Lubbock County, Texas (the "Facility") that has approximately 20 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted from June 29, 2015 through July 10, 2015, TCEQ staff documented that the single sample concentration for nitrate was 18 milligrams per liter ("mg/L") for the second quarter of 2015.
3. During a record review conducted from June 29, 2015 through July 10, 2015, TCEQ staff documented that the running annual average concentration for selenium was 0.06 mg/L for the first quarter of 2015.
4. The Respondent received notice of the violations on July 16, 2015.

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 comply with the acute maximum contaminant level ("MCL") of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.05 mg/L for selenium based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
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 Five Hundred Eighty-Five Dollars (\$585) 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). Five Hundred Eighty-Five Dollars (\$585) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the

Executive Director may request the Respondent to pay all or part of the deferred 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 Eighty-Five Dollars (\$585) 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: WTR Real Estate Holdings, L.C. dba Heartland House, Docket No. 2015-1082-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 120 days after the effective date of this Agreed Order, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the acute MCL for nitrate and the MCL for selenium. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after the effective date of this Agreed Order. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study. The evaluation shall be sent to the addresses in listed in Ordering Provision No. 2.g.
 - b. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 180 days after the effective date of this Agreed Order, submit an acceptable written plan, including a proposed schedule, to the Executive Director

that provides for the completion of an alternate water source or treatment technology to the addresses listed in Ordering Provision No. 2.g.

- d. Within 180 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.g. below. These reports shall include information regarding actions taken to provide water which meets the acute MCL for nitrate and the MCL for selenium.
- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.g. below to demonstrate compliance with Ordering Provision No. 2.c.
- f. Within 1,095 days after the effective date of this Agreed Order:
 - i. Return to compliance with the acute MCL for nitrate, in accordance with 30 TEX. ADMIN. CODE § 290.106; and
 - ii. Return to compliance with the MCL for selenium, based on the running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.106.
- g. Within 1,110 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 Nos. 2.f.i. and 2.f.ii. 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.

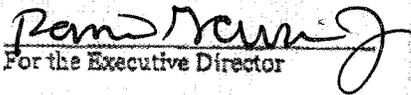
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

1/22/16
Date

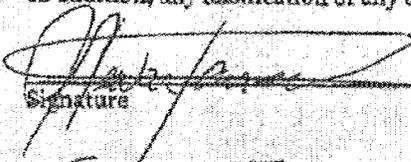
I, the undersigned, have read and understand the attached Agreed Order in the matter of WTR Real Estate Holdings, L.C. dba Heartland House. I am authorized to agree to the attached Agreed Order on behalf of WTR Real Estate Holdings, L.C. dba Heartland House, and do agree to the specified terms and conditions. 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, WTR Real Estate Holdings, L.C. dba Heartland House 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

ORIG. 9-9-15
Date

STEWART TOWARSEN
Name (Printed or typed)
Authorized Representative of
WTR Real Estate Holdings, L.C. dba Heartland House

MANAGING PARTNER
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.