

Executive Summary – Enforcement Matter – Case No. 51401

City of Toyah

RN101225001

Docket No. 2015-1546-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 Toyah PWS, located two miles off of the intersection of County Road 328 and County Road 215 near Toyah, Reeves 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: February 12, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$243

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$243

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 - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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City of Toyah
RN101225001
Docket No. 2015-1546-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 8, 2015 through September 18, 2015

Date(s) of NOE(s): September 18, 2015

Violation Information

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") based on the locational running annual average and failed to provide public notification and submit a copy of the public notification to the Executive Director ("ED") regarding the failure to comply with the MCL for TTHM [30 TEX. ADMIN. CODE §§ 290.115(f)(1) and 290.122(b)(2)(A) and (f) 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 30 days:
 - i. Implement procedures to ensure that all public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the ED; and
 - ii. Provide public notification regarding the failure to comply with the MCL for TTHM for the first quarter of 2015 and provide a copy of public notification to the ED.
- b. Within 45 days, submit written certification to demonstrate compliance with a.
- c. Within 365 days, return to compliance for the MCL for TTHM based on the locational running annual average.
- d. Within 380 days, submit written certification to demonstrate compliance with c.

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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: Yuliya Dunaway, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4077; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: The Honorable Ramona Campos, Mayor Pro-Tem, City of Toyah, P.O.
Box 144, Toyah, Texas 79785-0144
The Honorable Karen Hornberger, Mayor, City of Toyah, P.O. Box 144, Toyah, Texas
79785-0144
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	21-Sep-2015	Screening	1-Oct-2015	EPA Due	31-Dec-2015
	PCW	26-Oct-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Toyah		
Reg. Ent. Ref. No.	RN101225001		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51401	No. of Violations	1
Docket No.	2015-1546-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Adjustment **Subtotals 2, 3, & 7**

Notes: Enhancement for four NOV's with the same/similar violations, one NOV with dissimilar violations, and two agreed orders containing a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Estimated Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 1-Oct-2015

Docket No. 2015-1546-PWS-E

PCW

Respondent City of Toyah

Policy Revision 4 (April 2014)

Case ID No. 51401

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101225001

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

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>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with the same/similar violations, one NOV with dissimilar violations, and two agreed orders containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 62%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 62%

Screening Date 1-Oct-2015

Docket No. 2015-1546-PWS-E

PCW

Respondent City of Toyah

Policy Revision 4 (April 2014)

Case ID No. 51401

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101225001

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.115(f)(1) and 290.122(b)(2)(A) and (f) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the MCL for TTHM. Specifically, the locational running annual average concentrations of TTHM were 0.084 mg/L for the first quarter of 2015, 0.086 mg/L for the second quarter of 2015, and 0.089 mg/L for the third quarter of 2015 at Stage 2 Disinfection Byproducts Site 1. Additionally, a public notification regarding the failure to comply with the MCL for TTHM for the first quarter of 2015 was due by July 25, 2015 but was not provided.

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	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM and failing to provide a public notification regarding the failure to comply with the MCL for TTHM caused persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 272 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$150

One annual 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$629

Violation Final Penalty Total \$243

This violation Final Assessed Penalty (adjusted for limits) \$243

Economic Benefit Worksheet

Respondent City of Toyah
Case ID No. 51401
Reg. Ent. Reference No. RN101225001
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)	\$5,000	31-Mar-2015	11-Jan-2017	1.79	\$30	\$595	\$625
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	8-Sep-2015	1-May-2016	0.65	\$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)	\$25	25-Jul-2015	1-May-2016	0.77	\$1	n/a	\$1

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance. The record keeping delayed costs include the estimated amount to implement procedures to ensure that all necessary notifications are provided in a timely manner, calculated from the date of the record review to the estimated date of compliance.

The other delayed costs include the estimated amount to ensure that the required public notification (\$25 per notification) is provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of the public notification to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,125

TOTAL

\$629



Compliance History Report

PENDING Compliance History Report for CN600665780, RN101225001, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN600665780, City of Toyah	Classification:	SATISFACTORY	Rating:	0.25
Regulated Entity:	RN101225001, CITY OF TOYAH	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	TWO MILES OFF OF THE INTERSECTION OF CR 328 AND CR 215 NEAR TOYAH, REEVES COUNTY, TX				
TCEQ Region:	REGION 07 - MIDLAND				
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1950004				

Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015	Rating Date:	09/01/2015
Date Compliance History Report Prepared:	October 13, 2015				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	October 13, 2010 to October 13, 2015				

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

Name: Yuliya Dunaway **Phone:** (210) 403-4077

Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 10/03/2013 ADMINORDER 2013-0728-PWS-E (1660 Order-Agreed Order With Denial)
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
 - Description: TTHM MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a RAA of 0.105 mg/L.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
 - Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a RAA of 0.098 mg/L.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 - Description: NO3 MR YR2012 - The system failed to monitor and/or report nitrate levels to the TCEQ for annual monitoring period from 01/01/2012 to 12/31/2012 within the required timeline.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)
 - Description: VOC MR YR2008 - The system failed to monitor and/or report volatile organic contaminants levels to the

TCEQ for the annual monitoring period from 01/01/2008 to 12/31/2008 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: VOC MR YR2009 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: VOC MR YR2010 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: MIN MR YR2008 - The system failed to monitor and/or report mineral levels to the TCEQ for annual monitoring period from 01/01/2008 to 12/31/2008 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: MIN MR YR2009 - The system failed to monitor and/or report mineral levels to the TCEQ for annual monitoring period from 01/01/2009 to 12/31/2009 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: MIN MR YR2010 - The system failed to monitor and/or report mineral levels to the TCEQ for annual monitoring period from 01/01/2010 to 12/31/2010 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC MR YR2010 - The system failed to monitor and/or report synthetic organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC5 MR YR2009 - The system failed to monitor and/or report synthetic organic contaminants (Group SOC5) levels to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC5 MR YR2008 - The system failed to monitor and/or report synthetic organic contaminants (Group SOC5) levels to the TCEQ for the annual monitoring period from 01/01/2008 to 12/31/2008 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)

30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2011 - The system failed to provide the Consumer Confidence Report (CCR) for 2011 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

2 Effective Date: 03/12/2015 ADMINORDER 2014-1328-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.110(e)(5)

30 TAC Chapter 290, SubChapter F 290.111(h)(12)

30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 7/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.110(e)(5)

30 TAC Chapter 290, SubChapter F 290.111(h)(12)

30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 6/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

30 TAC Chapter 290, SubChapter F 290.110(e)(5)

30 TAC Chapter 290, SubChapter F 290.111(h)(12)

30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 5/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)

- 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
- 30 TAC Chapter 290, SubChapter F 290.111(h)(12)
- 30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 4/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
 Classification: Moderate

- Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.111(h)(12)
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 3/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
 Classification: Moderate

- Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)
 30 TAC Chapter 290, SubChapter F 290.111(h)(12)
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)

Description: SWTR SWMOR Major MR Violation 2/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	May 25, 2011	(921425)
Item 2	May 18, 2012	(1007241)
Item 3	June 24, 2013	(1100004)

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: 06/25/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 1Q2015 - During the first quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.084 mg/L at 6th Elliot (DBP2-01).

- 2 Date: 07/10/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 2Q2015 - During the second quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.086 mg/L at 6th Elliot (DBP2-01).

- 3 Date: 07/14/2015 (1265853) CN600665780
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
 Description: Failure to maintain minimum distribution disinfectant residual of 0.2 mg/L free chlorine.

- 4 Date: 08/19/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: TTHM DBP2 MCL PN 1Q2015 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 violation of the maximum contaminant level for trihalomethanes during the first quarter of 2015.

5 Date: 09/03/2015 (1280282) CN600665780
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 3Q2015 - During the third quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.089 mg/L at 6th Elliot (DBP2-01).

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

Component Appendices

Appendix A

All NOV's Issued During Component Period 10/13/2010 and 10/13/2015

- 1 Date: 12/18/2012 (1074042) CN600665780
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a RAA of 0.105 mg/L.
- 2 Date: 02/22/2013 (1074042) CN600665780
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a RAA of 0.098 mg/L.
- 3 Date: 08/07/2014 (1192863) CN600665780
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 6/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 5/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 4/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 3/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 2/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).
- 4 Date: 08/18/2014 (1192863) CN600665780
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)
30 TAC Chapter 290, SubChapter F 290.110(e)(5)
30 TAC Chapter 290, SubChapter F 290.111(h)(12)
30 TAC Chapter 290, SubChapter F 290.111(h)(2)
Description: SWTR SWMOR Major MR Violation 7/2014 - Failure to submit Surface Water Monthly Operating Report (SWMOR) with the required turbidity and disinfectant residual data by the required deadline for NEW WTP (TP19716).

- 5* Date: 06/25/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 1Q2015 - During the first quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.084 mg/L at 6th Elliot (DBP2-01).
For Informational Purposes Only
- 6* Date: 07/10/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 2Q2015 - During the second quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.086 mg/L at 6th Elliot (DBP2-01).
For Informational Purposes Only
- 7* Date: 07/14/2015 (1265853) CN600665780
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
 Description: Failure to maintain minimum distribution disinfectant residual of 0.2 mg/L free chlorine.
For Informational Purposes Only
- 8* Date: 08/19/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: TTHM DBP2 MCL PN 1Q2015 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 violation of the maximum contaminant level for trihalomethanes during the first quarter of 2015.
For Informational Purposes Only
- 9 Date: 09/03/2015 (1280282) CN600665780
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 3Q2015 - During the third quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.089 mg/L at 6th Elliot (DBP2-01).
For Informational Purposes Only

* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period October 13, 2010 and October 13, 2015

- Item 1* May 25, 2011** (971425) For Informational Purposes Only
- Item 2* May 18, 2012** (1907241) For Informational Purposes Only
- Item 3 March 11, 2013** (1974842) For Informational Purposes Only
- Item 4 March 21, 2013** (1974451) For Informational Purposes Only
- Item 5* June 24, 2013** (1100804) For Informational Purposes Only
- Item 6 September 03, 2014** (1192863) For Informational Purposes Only
- Item 7 September 05, 2014** (1193827) For Informational Purposes Only
- Item 8 July 14, 2015** (1765653) For Informational Purposes Only
- Item 9 September 14, 2015 (1780282) For Informational Purposes Only
- Item 10 September 18, 2015 (1780858) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF TOYAH
RN101225001

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2015-1546-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 Toyah ("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 two miles off of the intersection of County Road 328 and County Road 215 near Toyah, Reeves County, Texas (the "Facility") that has approximately 53 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from September 8, 2015 through September 18, 2015, TCEQ staff documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") were 0.084 milligrams per liter ("mg/L") for the first quarter of 2015, 0.086 mg/L for the second quarter of 2015, and 0.089 mg/L for the third quarter of 2015 at Stage 2 Disinfection Byproducts Site 1. Additionally, a public notification regarding the failure to comply with the maximum contaminant level ("MCL") for TTHM for the first quarter of 2015 was due by July 25, 2015 but was not provided.
3. The Respondent received notice of the violations on September 26, 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 MCL of 0.080 mg/L for TTHM, based on the locational running annual average and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the MCL for TTHM, in violation of 30 TEX. ADMIN. CODE §§ 290.115(f)(1) and 290.122(b)(2)(A) and (f) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. 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.
4. An administrative penalty in the amount of Two Hundred Forty-Three Dollars (\$243) 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 Two Hundred Forty-Three Dollar (\$243) 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 Two Hundred Forty-Three Dollars (\$243) as set forth in Section II, Paragraph 4 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 Toyah, Docket No. 2015-1546-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 procedures to ensure that all public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Provide public notification regarding the failure to comply with the MCL for TTHM for the first quarter of 2015 and provide a copy of public notification 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.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.;
 - c. Within 365 days after the effective date of this Agreed Order, return to compliance for the MCL for TTHM, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
 - d. Within 380 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. 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 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Ramona Campos
For the Executive Director

4/8/16
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Toyah. I am authorized to agree to the attached Agreed Order on behalf of the City of Toyah, 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 Toyah 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.

Ramona Campos
Signature

JAN. 9-2016
Date

RAMONA CAMPOS
Name (Printed or typed)
Authorized Representative of
City of Toyah

Protem Mayor
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.