

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 50531
Blueberry Hills Water Works, L.L.C.
RN101191229
Docket No. 2015-0736-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

2326 United States Highway 59 West, Beeville, Bee County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: June 3, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$345

Total Paid to General Revenue: \$345

Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Blueberry Hills Water Works, L.L.C.

RN101191229

Docket No. 2015-0736-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: April 13, 2015 through April 24, 2015
Date(s) of NOV(s): September 30, 2014; November 25, 2014; March 6, 2015
Date(s) of NOE(s): May 1, 2015

Violation Information

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 [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

Entered into an agreement to sell the Facility to the City of Beeville

Technical Requirements:

1. Within 160 days, either submit written certification documenting closing of the sale of the Facility to the City of Beeville, or undertake one of the following two technical requirement options:
 - a. Option 1:
 - i. Within 250 days, begin negotiating a water purchase contract that will enable the Facility to comply with the MCL for TTHM within 1,095 days after the effective date of this Order;
 - ii. Within 265 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.a.i.;
 - iii. Within 1,255 days, return to compliance with the MCL for TTHM based on the locational running annual average; and
 - iv. Within 1,270 days submit written certification to demonstrate compliance with Technical Requirement No. 1.a.iii.; **or**
 - b. Option 2:
 - i. Within 280 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 MCL for TTHM. 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 Order. If Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study;
 - ii. Within 295 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.b.i.;
 - iii. Within 340 days, submit to the Executive Director an acceptable written plan, including a proposed schedule, that provides for the completion of an alternate water source or treatment technology;
 - iv. Within 340 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 MCL for TTHM;

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RN101191229
Docket No. 2015-0736-PWS-E

- v. Within 355 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.b.iii. and 1.b.iv.;
- vi. Within 1,255 days, return to compliance with the MCL for TTHM based on the locational running annual average; and
- vii. Within 1,270 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.b.vi.

Litigation Information

Date Petition(s) Filed: October 28, 2015
Date Answer Filed: November 12, 2015
SOAH Referral Date: December 17, 2015
Hearing Date(s):
Preliminary Hearing: February 18, 2016
Evidentiary Hearing: August 8, 2016 (scheduled)
Settlement Date: April 24, 2016

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, (210) 403-4016
TCEQ Regional Contact: Melanie Edwards, Corpus Christi Regional Office, (361) 825-3100
Respondent Contact: Linda Unger, Blueberry Hills Water Works, L.L.C., 5902 Morningside Avenue, Dallas, Texas 75206
Respondent's Attorney: Ronnie Jones, Attorney and Counselor at Law, 9951 Anderson Mill Road, Unit 201, Austin, Texas 78750

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	4-May-2015	Screening	14-May-2015	EPA Due	31-Mar-2015
	PCW	5-Jun-2015				

RESPONDENT/FACILITY INFORMATION	
Respondent	Blueberry Hills Water Works, L.L.C.
Reg. Ent. Ref. No.	RN101191229
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	50531	Order Type	Findings
Docket No.	2015-0736-PWS-E	Government/Non-Profit	No
Media Program(s)	Public Water Supply	Enf. Coordinator	Katy Montgomery
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	\$300
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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

Notes	Enhancement for three NOVs with the same/similar violations.	Subtotal 2	\$45
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.			

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$5,838	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$20,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$345
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes		Final Penalty Amount	\$345
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$345
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)				

Notes	No deferral is recommended for Findings Orders.		
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PAYABLE PENALTY	\$345
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Screening Date 14-May-2015

Docket No. 2015-0736-PWS-E

PCW

Respondent Blueberry Hills Water Works, L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 50531

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101191229

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

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)

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 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 14-May-2015 **Docket No.** 2015-0736-PWS-E **PCW**
Respondent Blueberry Hills Water Works, L.L.C. *Policy Revision 4 (April 2014)*
Case ID No. 50531 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101191229
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.115(f)(1) 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. Specifically, the locational running annual average concentrations for TTHM were 0.084 mg/L for the fourth quarter of 2014 and 0.094 mg/L for the first quarter of 2015 at Stage 2 Disinfection Byproducts ("DBP2") Site 1, and 0.084 mg/L for the third quarter of 2014, 0.095 mg/L for the fourth quarter of 2014, 0.101 mg/L for the first quarter of 2015, and 0.084 mg/L for the second quarter of 2015 at DBP2 Site 2.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual		x	
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Failure to comply with the MCL for TTHM caused customers of the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events: 2 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$300

Two annual events are recommended, one for each Site.

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 \$300

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount \$5,838 Violation Final Penalty Total \$345
This violation Final Assessed Penalty (adjusted for limits) \$345

Economic Benefit Worksheet

Respondent Blueberry Hills Water Works, L.L.C.
Case ID No. 50531
Reg. Ent. Reference No. RN101191229
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)	\$20,000	30-Sep-2014	30-Nov-2018	4.17	\$278	\$5,560	\$5,838
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 MCL for TTHM, 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

\$20,000

TOTAL

\$5,838

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN602713232, RN101191229, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN602713232, Blueberry Hills Water Works, L.L.C. **Classification:** N/A **Rating:** N/A
Regulated Entity: RN101191229, BLUEBERRY HILLS WATERWORKS **Classification:** N/A **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 2326 UNITED STATES HIGHWAY 59 WEST, BEEVILLE, BEE COUNTY, TEXAS
TCEQ Region: REGION 14 - CORPUS CHRISTI
ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0130018
Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014
Date Compliance History Report Prepared: May 14, 2015
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: May 14, 2010 to May 14, 2015
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Katy Montgomery **Phone:** (210) 403-4016

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.

- 1 Date: 09/30/2014 (1247037) CN602713232**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 3Q2014 - During the 3rd quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.084 mg/L at 469 Cisneros (DBP2-02).
- 2 Date: 11/25/2014 (1247037) CN602713232**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 4Q2014 - During the 4th quarter of 2014 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.095 mg/L at 469 Cisneros (DBP2-02); and with a LRAA of 0.084 mg/L at 215 Presa (DBP2-01)
- 3 Date: 03/06/2015 (1247037) CN602713232**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 1Q2015 - During the 1st quarter of 2015 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.094 mg/L at 215 Presa (DBP2-01); and with a LRAA of 0.101 mg/L at 469 Cisneros (DBP2-02).

- 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BLUEBERRY HILLS
WATER WORKS, L.L.C.;
RN101191229**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2015-0736-PWS-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Blueberry Hills Water Works, L.L.C. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Ronnie Jones, presented this Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 2326 United States Highway 59 West in Beeville, Bee County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 105 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).
2. During a record review conducted April 13, 2015 through April 24, 2015, an investigator documented that Respondent failed to comply with the maximum containment level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations for TTHM at Stage 2 Disinfection Byproducts ("DBP2") Site 1 were 0.084 mg/L for the fourth quarter of 2014 and 0.094 mg/L for the first quarter of 2015, and the locational running annual average concentrations for TTHM at DBP2 Site 2 were 0.084 mg/L for the third quarter of 2014, 0.095 mg/L for the fourth quarter of 2014, 0.101 mg/L for the first quarter of 2015, and 0.084 mg/L for the second quarter of 2015.
3. The Executive Director recognizes that Respondent has entered into an agreement to sell the Facility to the City of Beeville.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to comply with the MCL of 0.080 mg/L for total TTHM, based on the locational running annual average, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of three hundred forty-five dollars (\$345.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid three hundred forty-five dollars (\$345.00) of the penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 160 days after the effective date of this Order, either submit written certification, in accordance with Ordering Provision No. 2.b., documenting the closing of the sale of the Facility to the City of Beeville, or undertake one of the following two technical requirement options:
 - i. Option 1:
 - A. Within 250 days after the effective date of this Order, begin negotiating a water purchase contract that will enable the Facility to comply with the MCL for TTHM within 1,095 days after the effective date of this Order, in accordance with 30 TEX. ADMIN. CODE § 290.45;
 - B. Within 265 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.b., to demonstrate compliance with Ordering Provision No. 2.a.i.A.;
 - C. Within 1,255 days after the effective date of this Order, return to compliance with the MCL for TTHM based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
 - D. Within 1,270 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision

No. 2.b., to demonstrate compliance with Ordering Provision No. 2.a.i.C.; or

ii. Option 2:

- A. Within 280 days of the effective date of this 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 MCL for TTHM. 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 Order. If 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 listed in Ordering Provision No. 2.b.;
- B. Within 295 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.b., to demonstrate compliance with Ordering Provision No. 2.a.ii.A.;
- C. Within 340 days after the effective date of this Order, submit to the Executive Director, to the addresses listed in Ordering Provision No. 2.b., an acceptable written plan, including a proposed schedule, that provides for the completion of an alternate water source or treatment technology;
- D. Within 340 days after the effective date of this Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.b. These reports shall include information regarding actions taken to provide water which meets the MCL for TTHM;
- E. Within 355 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.b., to demonstrate compliance with Ordering Provisions Nos. 2.a.ii.C. and 2.a.ii.D.;
- F. Within 1,255 days after the effective date of this Order, return to compliance with the MCL for TTHM based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
- G. Within 1,270 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.b., to demonstrate compliance with Ordering Provision No. 2.a.ii.F.

- b. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
7. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. 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

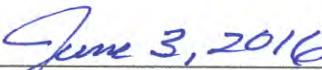
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director



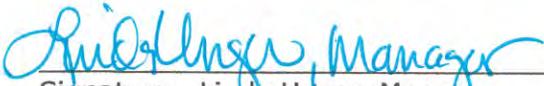
Date

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

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

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

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



Signature - Linda Unger, Manager
Blueberry Hills Water Works, L.L.C.
5902 Morningside Avenue
Dallas, Texas 75206



Date

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