

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 51551
United States Army Corps of Engineers
RN102401130
Docket No. 2015-1721-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:

N/A

Location(s) Where Violation(s) Occurred:

20020 Interstate Highway 10 East, Wallisville, Chambers County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: \$524.46 (Account Number 24305109)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: August 12, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$732

Total Paid to General Revenue: \$732

Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: October 19, 2015

Date(s) of NOV(s): See Compliance History – 4 related NOVs

Date(s) of NOE(s): October 30, 2015

Violation Information

1. Failed to comply with the MCL for total coliform and failed to issue public notification and submit a copy of the public notification to the Executive Director [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and (f)].
2. Failed to collect raw groundwater source *E. coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

None

1. Within 30 days:
 - a. Begin complying with applicable coliform monitoring requirements by collecting one raw groundwater source *E. coli* sample from each groundwater source in use at the time a distribution coliform-positive sample is collected and providing water that meets the provisions regarding microbial contaminants;
 - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director; and
 - c. Issue public notification regarding the failure to comply with the MCL for total coliform for the month of August 2015 and provide a copy of the public notification to the Executive Director.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirements Nos. 1.b. and 1.c.
3. Within 225 days submit written certification to demonstrate compliance with Technical Requirements No. 1.a.

Litigation Information

Date Petition(s) Filed: June 24, 2016

Date Answer Filed: N/A

Settlement Date: July 11, 2016

Contact Information

TCEQ Attorneys: Elizabeth Carroll Harkrider, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Kingsley Coppinger, Enforcement Division, (512) 239-6581

TCEQ Regional Contact: Gary Chauvin, Public Drinking Water Section, TCEQ Water Supply Division, MC-155, P.O. Box 13087, Austin, Texas 78711-3087

Respondent's Attorney: Robert Niles Hooper, Deputy District Counsel, United States Army Corps of Engineers, Office of Counsel, Galveston District, P.O. Box 1229, Galveston, Texas 77553-1229



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	2-Nov-2015	Screening	19-Nov-2015	EPA Due	31-Mar-2016
	PCW	19-Nov-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	United States Army Corps of Engineers		
Reg. Ent. Ref. No.	RN102401130		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51551	No. of Violations	2
Docket No.	2015-1721-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Kingsley Coppinger
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$600
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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	22.0% Adjustment	Subtotals 2, 3, & 7	\$132
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Notes: Enhancement for four NOV's with same/similar violations and one NOV with dissimilar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$108
 Estimated Cost of Compliance: \$205
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$732
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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: [Empty box]

Final Penalty Amount	\$732
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$732
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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	\$732
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Screening Date 19-Nov-2015

Docket No. 2015-1721-PWS-E

PCW

Respondent United States Army Corps of Engineers

Policy Revision 4 (April 2014)

Case ID No. 51551

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102401130

Media [Statute] Public Water Supply

Enf. Coordinator Kingsley Coppinger

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>)	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) 22%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 19-Nov-2015 **Docket No.** 2015-1721-PWS-E **PCW**
Respondent United States Army Corps of Engineers *Policy Revision 4 (April 2014)*
Case ID No. 51551 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN102401130
Media [Statute] Public Water Supply
Enf. Coordinator Kingsley Coppinger

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(B) and (f) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to comply with the maximum contaminant level ("MCL") for total coliform during the month of August 2015 and failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the MCL for total coliform for the month of August 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		15.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$150

One monthly 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 \$108 **Violation Final Penalty Total** \$183

This violation Final Assessed Penalty (adjusted for limits) \$183

Economic Benefit Worksheet

Respondent United States Army Corps of Engineers
Case ID No. 51551
Reg. Ent. Reference No. RN102401130
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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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	19-Oct-2015	31-May-2016	0.62	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5	30-Sep-2015	31-May-2016	0.67	\$0	n/a	\$0

Notes for DELAYED costs
 The training/sampling delayed cost includes the estimated amount to implement procedures to ensure that all necessary public notifications are issued in a timely manner and a copy of the public notification is submitted to the Executive Director, calculated from the record review start date to the estimated date of compliance. The other delayed cost includes the estimated amount to ensure that all delinquent public notifications (\$5 per notification) are issued 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]	\$100	1-Aug-2015	31-Aug-2015	1.00	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 The one-time avoided cost includes the estimated amount for additional sampling and oversight to identify the source of the contamination, calculated for the month in which the exceedance occurred.

Approx. Cost of Compliance \$205

TOTAL \$108

Screening Date 19-Nov-2015

Docket No. 2015-1721-PWS-E

PCW

Respondent United States Army Corps of Engineers

Policy Revision 4 (April 2014)

Case ID No. 51551

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102401130

Media [Statute] Public Water Supply

Enf. Coordinator Kingsley Coppinger

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description

Failed to collect raw groundwater source Escherichia coli samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample for the months of May 2013 and August and September 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct raw groundwater source monitoring could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3

92 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$450

Three monthly events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$75

Violation Final Penalty Total \$549

This violation Final Assessed Penalty (adjusted for limits) \$549

Economic Benefit Worksheet

Respondent United States Army Corps of Engineers
Case ID No. 51551
Reg. Ent. Reference No. RN102401130
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	4-May-2013	5-May-2013	0.00	\$0	\$25	\$25
ONE-TIME avoided costs [3]	\$25	7-Aug-2014	8-Aug-2014	0.00	\$0	\$25	\$25
ONE-TIME avoided costs [3]	\$25	23-Sep-2014	24-Sep-2014	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to collect raw groundwater source samples from all active sources (\$25 per sample x three missed samples), calculated for the 24-hour period after the coliform-positive results.

Approx. Cost of Compliance

\$75

TOTAL

\$75

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 CN600918916, RN102401130, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN600918916, United States Army Corps of Engineers **Classification:** SATISFACTORY **Rating:** 5.68

Regulated Entity: RN102401130, Trinity River Island Recreation Wallisville **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 20020 INTERSTATE HIGHWAY 10 EAST, NEAR WALLISVILLE, CHAMBERS COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** 72228
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0360135

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: November 17, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 17, 2010 to November 17, 2015

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

Name: Rachel Bekowies

Phone: (512) 239-2608

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: 07/07/2015 (1288042) CN600918916**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source MR Violation 08/2014 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s) within the required timeline.
- 2 Date: 08/28/2015 (1230608) CN600918916**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to develop and maintain an up to date system monitoring plan.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to compile and maintain, a current, and thorough plant operations manual for operator review and reference.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(1)(B)
Description: Failure to perform at least once every seven days, chlorine residual tests on water collected from various locations within the distribution system.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failure to conduct an inspection of the pressure tank annually.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failure to conduct an inspection of the ground storage tank at least annually.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: Failure to equip the pressure tank with a capacity greater than 1000 gallons with some sanitary means of determining the air to water ratio.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to properly maintain the regulated entity by not repairing or replacing the broken flow meter.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)(1)
Description: Failure to maintain accurate and up-to-date as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tank, in violation of 30 TAC §290.46(n)(1).

3 Date: 08/31/2015 (1288042) CN600918916

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source MR Violation 09/2014 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source(s) within the required timeline.

4 Date: 09/01/2015 (1288042) CN600918916

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 08/2015 - System exceeded a maximum contaminant level.

5 Date: 10/22/2015 (1288042) CN600918916

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: AUG/2015 TCR MCL PN 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 maximum contaminant level violation during the month of 08/2015.

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
ENFORCEMENT ACTION
CONCERNING
UNITED STATES ARMY CORPS
OF ENGINEERS;
RN102401130**

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§
§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2015-1721-PWS-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding United States Army Corps of Engineers ("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 Robert N. Hooper, Deputy District Counsel of the United States Army Corps of Engineers, Galveston District, 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 20020 Interstate Highway 10 East in Wallisville, Chambers County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 4 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 commenced on October 19, 2015, an investigator documented that Respondent:
 - a. Failed to comply with the maximum contaminant level ("MCL") for total coliform during the month of August 2015 and failed to issue public notification and submit a copy of the public notification to the Executive

Director regarding the failure to comply with the MCL for total coliform for the month of August 2015; and

- b. Failed to collect raw groundwater source *Escherichia coli* ("E. coli") samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample for the months of May 2013 and August and September 2014.

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, the rules of the TCEQ, and 42 U.S.C. § 300-j6(a).
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with the MCL for total coliform and failed to issue public notification and submit a copy of the public notification to the Executive Director, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and (f).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect raw groundwater source *E. coli* samples from all active sources within 24 hours of notification of a distribution total coliform-positive result on a routine sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a) and 42 U.S.C. § 300-j6(b), 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.
5. An administrative penalty in the amount of seven hundred thirty-two dollars (\$732.00) 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(b). Respondent paid seven hundred thirty-two dollars (\$732.00) 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. 5 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 30 days after the effective date of this Order:
 - i. Begin complying with applicable coliform monitoring requirements by collecting one raw groundwater source *E. coli* sample from each

groundwater source in use at the time a distribution coliform-positive sample is collected and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting;

- ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iii. Issue public notification regarding the failure to comply with the MCL for total coliform for the month of August 2015 and provide a copy of the 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 Order, submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provisions Nos. 3.a.ii. and 3.a.iii.; and
 - c. Within 225 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provision No. 3.a.i.
 - d. 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
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
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

[Signature]

For the Executive Director

August 31, 2016

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]

Signature

11-JUL-16

Date

KARL B BROWN

Name (Printed or typed)

CHIEF, PROJ. OPS.

Title

Authorized representative of
United States Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

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