

Larry E. Smith

RN106357403

Docket No. 2014-1809-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:

1127 Mindie Lane, near San Antonio, Bexar 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: August 12, 2016**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$1,752**Total Paid to General Revenue:** \$104**Total Due to General Revenue:** \$1,648

Payment Plan: 16 payments of \$103 each

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** April 2014

Larry E. Smith

RN106357403

Docket No. 2014-1809-PWS-E

Investigation Information

- Complaint Date(s):** January 5, 2011
Complaint Information: San Antonio Health Department reported an unapproved PWS. The unapproved well serves Lenny's BBQ at 1224 Talley Rd and an unnamed daycare at 1127 Mindy Love.
- Date(s) of Investigation:** November 10, 2014 through November 21, 2014 and December 4, 2014
- Date(s) of NOV(s):** See Compliance History – 5 related NOV's
- Date(s) of NOE(s):** November 21, 2014

Violation Information

1. Failed to collect a routine distribution water sample for coliform analysis [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i)].
2. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed by an approved laboratory, and provide the results to the Executive Director [30 TEX. ADMIN. CODE § 290.117(c)(2)(A) and (i)(1)].
3. Failed to provide public notifications and submit a copies of the public notifications to the Executive Director [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].
4. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90150560 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

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

None

Technical Requirements:

1. Within 30 days:
 - a. Begin complying with applicable coliform monitoring requirements by conducting routine coliform monitoring and providing water that meets the provisions regarding microbial contaminants;
 - b. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period;
 - c. 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, including but not limited to providing public notification regarding the failure to submit Disinfectant Level Quarterly Operating Reports, and the failure to conduct nitrate, Stage 1 Disinfectant Byproduct and asbestos sampling; and
 - d. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90150560.
2. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.b. through 1.d.
3. Within 90 days, begin complying with the lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period.

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4. Within 225 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.a.
5. Within 465 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: August 05, 2015; September 10, 2015
Date Answer Filed: August 31, 2015
SOAH Referral Date: October 6, 2015
Hearing Date(s):
Preliminary Hearing: November 12, 2015
Settlement Date: June 14, 2016

Contact Information

TCEQ Attorneys: J. Amber Ahmed, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division, (210) 403-4076
TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 403-4050
Respondent Contact: Larry E. Smith, 1127 Mindie Lane, San Antonio, Texas 78253
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	24-Nov-2014	Screening	4-Dec-2014	EPA Due	31-Dec-2014
	PCW	7-Jun-2016				

RESPONDENT/FACILITY INFORMATION	
Respondent	Larry E. Smith
Reg. Ent. Ref. No.	RN106357403
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49770	No. of Violations	4
Docket No.	2014-1809-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michaelle Garza
		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	\$800
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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	50.0% Enhancement	Subtotals 2, 3, & 7	\$400
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Notes: Enhancement for five NOV's with the same/similar violations and one agreed order without a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$559
 Estimated Cost of Compliance: \$695
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	46.0%	Adjustment	\$552
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation nos. 1, 2, and 3.

Final Penalty Amount	\$1,752
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,752
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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	\$1,752
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Screening Date 4-Dec-2014

Docket No. 2014-1809-PWS-E

PCW

Respondent Larry E. Smith

Policy Revision 4 (April 2014)

Case ID No. 49770

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106357403

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

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>)	5	25%
	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	1	25%
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) 50%

>> **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 five NOVs with the same/similar violations and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 50%

Screening Date 4-Dec-2014

Docket No. 2014-1809-PWS-E

PCW

Respondent Larry E. Smith

Policy Revision 4 (April 2014)

Case ID No. 49770

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106357403

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect a routine distribution water sample for coliform analysis for the month of August 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Failure to collect routine distribution coliform samples may 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 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 \$26

Violation Final Penalty Total \$329

This violation Final Assessed Penalty (adjusted for limits) \$329

Economic Benefit Worksheet

Respondent Larry E. Smith
Case ID No. 49770
Reg. Ent. Reference No. RN106357403
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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	1-Aug-2014	31-Aug-2014	1.00	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect a routine distribution coliform sample (\$25 per sample x one missed sample), calculated for the month sampling was not conducted.

Approx. Cost of Compliance \$25

TOTAL \$26

Screening Date 4-Dec-2014

Docket No. 2014-1809-PWS-E

PCW

Respondent Larry E. Smith

Policy Revision 4 (April 2014)

Case ID No. 49770

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106357403

Media [Statute] Public Water Supply

Enf. Coordinator Michaëlle Garza

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.117(c)(2)(A) and (i)(1)

Violation Description Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed by an approved laboratory, and provide the results to the Executive Director for the January 1, 2013 through June 30, 2013, July 1, 2013 through December 31, 2013, and January 1, 2014 through June 30, 2014 monitoring periods.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Failure to collect lead and copper samples may 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 3 545 Number of violation days

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual (x), annual, single event.

Violation Base Penalty \$450

Three semiannual events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: 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 \$507

Violation Final Penalty Total \$986

This violation Final Assessed Penalty (adjusted for limits) \$986

Economic Benefit Worksheet

Respondent Larry E. Smith
Case ID No. 49770
Reg. Ent. Reference No. RN106357403
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	\$100	10-Nov-2014	1-Jul-2015	0.64	\$3	n/a	\$3
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 implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that lead and copper samples are collected, submitted to the laboratory for analysis, and reported to the Executive Director, calculated from the date of the record review 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]	\$450	1-Jan-2013	30-Jun-2014	2.41	\$54	\$450	\$504
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for the Facility to collect and have analyzed lead and copper samples (\$30 per sample x five samples x three monitoring periods), calculated for the monitoring periods in which sampling was required.

Approx. Cost of Compliance

\$550

TOTAL

\$507

Screening Date 4-Dec-2014

Docket No. 2014-1809-PWS-E

PCW

Respondent Larry E. Smith

Policy Revision 4 (April 2014)

Case ID No. 49770

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106357403

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit Disinfectant Level Quarterly Operating Reports from the third quarter of 2013 through the first quarter of 2014 and the failure to conduct nitrate and Stage 1 Disinfectant Byproduct sampling for the 2013 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%)

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 4 Number of violation days 272

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

Violation Base Penalty \$200

Four single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$438

This violation Final Assessed Penalty (adjusted for limits) \$438

Economic Benefit Worksheet

Respondent Larry E. Smith
Case ID No. 49770
Reg. Ent. Reference No. RN106357403
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	10-Nov-2014	1-Jul-2015	0.64	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to implement procedures to ensure that all necessary public notifications are provided in a timely manner, calculated from the record review date 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]	\$20	11-Oct-2013	10-Jul-2014	1.66	\$2	\$20	\$22
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification (\$5 per notification x four missed notifications), calculated for the periods in which public notification was required.

Approx. Cost of Compliance

\$120

TOTAL

\$25

Screening Date 4-Dec-2014

Docket No. 2014-1809-PWS-E

PCW

Respondent Larry E. Smith

Policy Revision 4 (April 2014)

Case ID No. 49770

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106357403

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90150560 for Fiscal Year 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%). Includes Matrix Notes field.

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. Includes instruction: mark only one with an x.

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Larry E. Smith
Case ID No. 49770
Reg. Ent. Reference No. RN106357403
Media Public Water Supply
Violation No. 4

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

Not applicable.

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

Not applicable.

Approx. Cost of Compliance

\$0

TOTAL

\$0

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 CN604050062, RN106357403, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604050062, Larry E. Smith **Classification:** N/A **Rating:** N/A
Regulated Entity: RN106357403, Little Treehouse Early Learning Center **Classification:** N/A **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 1127 MINDIE LANE NEAR SAN ANTONIO, BEXAR COUNTY, TEXAS
TCEQ Region: REGION 13 - SAN ANTONIO
ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION0150560
Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014
Date Compliance History Report Prepared: March 09, 2015
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: March 09, 2010 to March 09, 2015

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

Name: Michaelle Garza

Phone: (210) 403-4076

Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 01/24/2014 ADMINORDER 2013-0825-PWS-E (Findings Order-Agreed Order Without Denial)**
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 290, SubChapter D 290.39(e)(1)
30 TAC Chapter 290, SubChapter D 290.39(h)(1)
5A THSC Chapter 341, SubChapter A 341.035
 - Description:** Failed to submit plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply. Specifically, the Respondent was operating businesses which meets the definition of a non-transient non-community public water supply without first obtaining approval.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(d)(1)
 - Description:** Failed to measure the free chlorine residual to a minimum accuracy of plus or minus 0.1 milligrams per liter ("mg/L") using methods approved by the Executive Director. Specifically, a orthotolidine test kit (pool test kit) was being used to monitor the free chlorine residual.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 - Description:** Failed to ensure that wellheads and pump bases are sealed by a gasket or sealing compound and are properly vented to prevent the possibility of contaminating the well water. Specifically, it was documented that there was a gap where the wellhead rested on the well casing and there was no casing vent.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)
 - Classification:** Moderate
 - Description:** Failed to provide a suitable sampling cock on the discharge pipe of each well pump prior to any treatment. Specifically, the well's discharge line was lacking the required sampling cock which is needed for raw water sampling.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 290, SubChapter D 290.46(v)
 - Description:** Failed to ensure that the electrical wiring is securely installed in compliance with a local or national electrical code. Specifically, the electrical wiring for the well pump was not installed inside a conduit.
 - Classification:** Moderate
 - Citation:** 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
 - Description:** GWR Triggered Source MR Violation 10/2012 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for 1 source within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: MAR/2012 TCR Routine MR 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 failing to conduct routine coliform monitoring for the month of 03/2012.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: SEP/2012 TCR Routine MR 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 failing to conduct routine coliform monitoring for the month of 09/2012.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: OCT/2012 GWR Triggered Source Monitoring 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 failing to conduct triggered source monitoring for the month of 10/2012.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: NOV/2012 TCR Increase MR 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 failing to conduct increase coliform monitoring for the month of 11/2012.

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 the 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: SOC MR 3Y2012 - The system failed to monitor and/or report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2010 to 12/31/2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)
Description: VOC MR 3Y2012 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2010 to 12/31/2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
Description: MTL MR 3Y2012 - The system failed to monitor and/or report metal levels to the TCEQ for the triennial monitoring period from 01/01/2010 to 12/31/2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 2Q2012 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 2nd quarter of 2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 3Q2012 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 3rd quarter of 2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 4Q2012 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)
Description: DBP1 MR YR2012 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2012 to 12/31/2012 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
Description: MIN MR 3Y2012 - The system failed to monitor and/or report mineral levels to the TCEQ for the triennial monitoring period from 01/01/2010 to 12/31/2012 within the required timeline.

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: 09/12/2014 (1209388) CN604050062**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: DLQOR MR PN 4Q2013 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 disinfectant monitoring and reporting violation for the 4th quarter of 2013.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: DLQOR MR PN 3Q2013 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 disinfectant monitoring and reporting violation for the 3rd quarter of 2013.
- 2 Date: 10/13/2014 (1209388) CN604050062**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: DLQOR MR PN 1Q2014 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 disinfectant monitoring and reporting violation for the 1st quarter of 2014.
- 3 Date: 10/17/2014 (1209388) CN604050062**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: TCR Routine MR Violation 08/2014 - Failure to collect and/or submit routine monitoring sample(s) within the required timeline.
- 4 Date: 11/07/2014 (1209388) CN604050062**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.117(i)(1)
 Description: LCR IN MR 1st 6M2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the initial six-month monitoring period from 01/01/2014 to 06/30/2014 within the required timeline.
- 5 Date: 11/10/2014 (1209388) CN604050062**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: DBP1 MR PN YR2013 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 disinfectant byproducts monitoring and reporting violation for the annual monitoring period from 01/01/2013 to 12/31/2013.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: NO3 MR PN YR2013 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 nitrate monitoring and reporting violation for the annual monitoring period from 01/01/2013 to 12/31/2013.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: ASB MR PN 9Y2013 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 an asbestos monitoring and reporting violation for the 9 year monitoring period from 01/01/2005 to 12/31/2013.

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
LARRY E. SMITH;
RN106357403**

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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-1809-PWS-E

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

Respondent understands that he 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 a public water system located at 1127 Mindie Lane near San Antonio, Bexar County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately four 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 November 10, 2014 through November 21, 2014, an investigator documented that Respondent:
 - a. Failed to collect a routine distribution water sample for coliform analysis for the month of August 2014;
 - b. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed by an approved laboratory, and provide the results to the Executive Director for the January 1, 2013 through June 30, 2013, July 1, 2013 through December 31, 2013, and January 1, 2014 through June 30, 2014 monitoring periods; and
 - c. Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit

Disinfectant Level Quarterly Operating Reports from the third quarter of 2013 through the first quarter of 2014, the failure to conduct nitrate and Stage 1 Disinfectant Byproduct sampling for the 2013 monitoring period, and the failure to conduct asbestos sampling for the January 1, 2005 through December 31, 2013 monitoring period.

3. During a record review conducted on December 4, 2014, an investigator documented that Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90150560 for Fiscal Year 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 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect a routine distribution water sample for coliform analysis, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed by an approved laboratory, and provide the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(A) and (i)(1).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide public notifications and submit copies of the public notifications to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
5. As evidenced by Finding of Fact No. 3. Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90150560, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
6. 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.
7. An administrative penalty in the amount of one thousand seven hundred fifty-two dollars (\$1,752.00) 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 one hundred four dollars (\$104.00) of the penalty. The remaining amount of one thousand six hundred forty-eight dollars (\$1,648.00) shall be paid in sixteen (16) monthly payments of one hundred three dollars (\$103.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

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. 7 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. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Larry E. Smith, Docket No. 2014-1809-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days of the effective date of this Order,
 - i. Begin complying with applicable coliform monitoring requirements by conducting routine coliform monitoring 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 improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117;
 - iii. 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, including but not limited to providing public notification regarding the failure to submit Disinfectant Level Quarterly Operating Reports, and the failure to conduct nitrate, Stage 1 Disinfectant Byproduct and asbestos sampling, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iv. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90150560. The payment shall be sent with the notation "Larry E. Smith, Financial Administration Account No. 90150560" 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
 - b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provisions Nos. 2.a.ii. through 2.a.iv.

- c. Within 90 days after the effective date of this Order, begin complying with the lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon two compliant six-month monitoring periods.
- d. Within 225 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.a.i.
- e. Within 465 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.c.
- f. 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

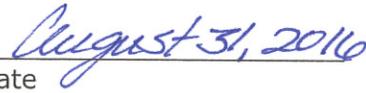
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director



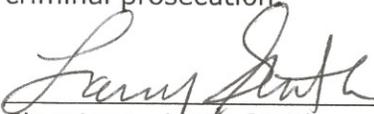
Date

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.

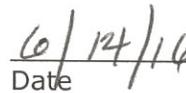
I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- 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 - Larry Smith
1127 Mindie Lane
San Antonio, Texas 78253



Date

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