

**Executive Summary – Enforcement Matter – Case No. 42634
City of O'Brien
RN101386852
Docket No. 2013-1642-MLM-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

MLM - PWS, WR

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of O'Brien PWS, 1002 Grand Central Avenue, O'Brien, Haskell County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: March 7, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,194

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$174

Total Due to General Revenue: \$6,020

Payment Plan: 35 payments of \$172 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unsatisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$18

Applicable Penalty Policy: September 2002 and September 2011

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RN101386852
Docket No. 2013-1642-MLM-E

Investigation Information

Complaint Date(s): May 23, 2013

Complaint Information: Alleged that the water system was not properly operated due to frequent overflow of the standpipe which floods an adjacent property and that the City's well pump was not operating for an undetermined period of time. The complainant also alleged that the City's water contained sand.

Date(s) of Investigation: January 3, 2013, May 23, 2013, July 19, 2013, July 22, 2013, and August 29, 2013

Date(s) of NOE(s): January 28, 2013, July 9, 2013, July 26, 2013, and August 14, 2013

Violation Information

1. Failed to compile and maintain a plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].
2. Failed to provide the water storage tank with a liquid level indicator located at the tank site [30 TEX. ADMIN. CODE § 290.43(c)(4)].
3. Failed to maintain a minimum disinfectant residual of 0.5 milligrams per liter (“mg/L”) total chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
4. Failed to make water works operation and maintenance records available for review by Commission personnel during the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iv), and (f)(3)(A)(vii)].
5. Failed to inspect the ground storage tank (“GST”) and standpipe annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].
6. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)].
7. Failed to make available for review copies of well completion data for Well No. 1 [30 TEX. ADMIN. CODE § 290.46(n)(3)].
8. Failed to calibrate the Facility's well meter at least once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].

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City of O'Brien

RN101386852

Docket No. 2013-1642-MLM-E

9. Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations [30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i)].

10. Failed to post a legible ownership sign at the Facility's production, treatment, and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].

11. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].

12. Failed to provide public notification regarding the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") and failed to provide public notification regarding the failure to collect a routine coliform monitoring [30 TEX. ADMIN. CODE § 290.122(c)(2)(A)].

13. Failed to submit DLQORs to the Executive Director ("ED") by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3) and TCEQ Agreed Order Docket No. 2011-1781-PWS-E, Ordering Provision Nos. 2.b.ii. and 2.d.].

14. Failed to collect one raw groundwater source *Escherichia coli* ("*E. coli*") sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample and failed to provide public notification regarding the failure to collect a raw groundwater source sample [30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A) and TCEQ Agreed Order Docket No. 2011-1781-PWS-E, Ordering Provision Nos. 2.a. and 2.b.i.].

15. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

16. Failed to provide public notification regarding the maximum contaminant level ("MCL") exceedance for October 2012 [30 TEX. ADMIN. CODE § 290.122(b)(2)(A)].

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17. Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier [30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B) and TEX. WATER CODE § 11.1272(c)].

18. Failed to pay all annual Public Health Service fees and Consolidated Water Quality fees [30 TEX. ADMIN. CODE §§ 290.51(a)(6) and 21.4 and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2013 to each bill paying customer and make good faith effort to deliver the CCR to non-bill paying customers;

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility including but not limited to: providing public notification for the failure to submit DLQORs, the failure to collect routine samples, and for the failure to comply with an MCL;

iii. 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 the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility;

iv. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs;

v. Develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements;

vi. Begin compiling and maintaining properly completed monthly water works operation reports and maintenance records, including but not limited to: the amount and type of

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chemicals used each week; the amount of water produced each week, the dates that the dead-end mains were flushed, and a daily record or monthly summary of the work performed and the number of hours worked by each part-time operator;

vii. Begin verifying the accuracy of the manual disinfectant residual analyzer once every 90 days using chlorine solutions of known concentrations;

viii. Calibrate the well meter;

ix. Conduct an annual inspection of the Facility's GST and standpipe;

x. Provide a legible sign with the Facility name and an emergency telephone number where a responsible official can be contacted at the standpipe;

xi. Install and begin operating disinfection facilities to continuously maintain an adequate disinfectant residual throughout the distribution system for the purpose of microbiological control and distribution protection;

xii. Update the Facility's operational guidance and conduct employee training to ensure that a disinfectant residual concentration of at least 0.5 mg/L total chlorine is maintained throughout the distribution system at all times. This provision will be satisfied upon six months of daily compliant monitoring and reporting; and

xiii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account Nos. 91040005 and 23004062.

b. Within 45 days:

i. Submit to the Commission a copy of the CCR provided to customers of the Facility and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data; and

ii. Submit written certification to demonstrate compliance with Ordering Provisions a.i., a.ii., and a.iv. through a.xi.

c. Within 60 days:

i. Begin maintaining an up-to-date and thorough plant operations manual for operator review and reference;

ii. Equip the standpipe with a liquid level indicator;

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Docket No. 2013-1642-MLM-E

- iii. Submit and adopt a drought contingency plan that includes all elements for municipal use by a retail public water supplier;
- iv. Provide an up-to-date map of the distribution system that includes the locations of all mains and valves; and
- v. Submit written certification to demonstrate compliance with Ordering Provision b.i.
- d. Within 75 days, submit written certification to demonstrate compliance with Ordering Provisions c.i. through c.iv.
- e. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.
- f. Within 180 days, provide a copy of well completion data which includes but is not limited to: well material setting data, geological log, sealing information, disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well.
- g. Within 195 days, submit written certification to demonstrate compliance with Ordering Provision f.
- h. Within 225 days, submit written certification to demonstrate compliance with Ordering Provisions a.iii. and a.xii.
- i. Within 285 days, submit written certification to demonstrate compliance with Ordering Provision e.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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City of O'Brien
RN101386852
Docket No. 2013-1642-MLM-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division,
Enforcement Team 6, MC 169, (512) 239-2576; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Jim Johnston, City Council Member, City of O'Brien, P.O. Box 38,
O'Brien, Texas 79539

The Honorable Jenoma Stephens, Mayor, City of O'Brien, P.O. Box 38, O'Brien, Texas
79539

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	26-Aug-2013	Screening	29-Aug-2013	EPA Due	31-Mar-2013
	PCW	29-Aug-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of O'Brien
Reg. Ent. Ref. No.	RN101386852
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42634	No. of Violations	1
Docket No.	2013-1642-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Rights	Enf. Coordinator	Abigail Lindsey
		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	\$100
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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	55.0% Enhancement	Subtotals 2, 3, & 7 \$55

Notes: Enhancement for five NOVs with same/similar violations, one agreed order with a denial of liability, and an unsatisfactory performer classification.

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
Total EB Amounts	\$94	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$82		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$155
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Notes: [Empty box]

Final Penalty Amount	\$155
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$155
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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	\$155
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Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 2 (September 2002)

Case ID No. 42634

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

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>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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) 45%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for five NOVs with same/similar violations, one agreed order with a denial of liability, and an unsatisfactory performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 2 (September 2002)

Case ID No. 42634

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCR to the bill paying customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the year of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 365

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

Violation Base Penalty \$100

One annual event is 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$94

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$82	1-Jul-2011	29-Aug-2013	3.08	\$13	\$82	\$94
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the 2010 CCR to the customers of the Facility and to the TCEQ $(([\$0.50 \times 63 \text{ connections}] + \$50) \times 1 \text{ year})$, calculated from the date the CCR was due to the screening date.

Approx. Cost of Compliance	\$82	TOTAL	\$94
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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	26-Aug-2013	Screening	29-Aug-2013	EPA Due	31-Mar-2013
	PCW	29-Aug-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of O'Brien		
Reg. Ent. Ref. No.	RN101386852		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42634	No. of Violations	17
Docket No.	2013-1642-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Rights	Enf. Coordinator	Abigail Lindsey
		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** **\$3,635**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 55.0% Enhancement **Subtotals 2, 3, & 7** **\$1,999**

Notes Enhancement for five NOVs with same/similar violations, one agreed order with a denial of liability, and an unsatisfactory performer classification.

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**

Economic Benefit 0.0% Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$1,218
 Approx. Cost of Compliance \$3,943 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,634**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$5,634**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,652**

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.

PAYABLE PENALTY **\$5,652**

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

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>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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) 45%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for five NOVs with same/similar violations, one agreed order with a denial of liability, and an unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 55%

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to compile and maintain a plant operations manual for operator review and reference. Specifically, at the time of the January 3, 2013 investigation, it was documented that no plant operations manual was available.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

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

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 238 Number of violation days

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7 Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	3-Jan-2013	1-Jun-2014	1.41	\$7	n/a	\$7
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 compile and maintain a plant operations manual, calculated from the date of the investigation 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

\$100

TOTAL

\$7

Screening Date 29-Aug-2013
Respondent City of O'Brien
Case ID No. 42634

Docket No. 2013-1642-MLM-E

PCW

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852
Media [Statute] Public Water Supply
Enf. Coordinator Abigail Lindsey

Violation Number
Rule Cite(s)

30 Tex. Admin. Code § 290.43(c)(4)

Violation Description

Failed to provide the water storage tank with a liquid level indicator located at the tank site. Specifically, at the time of the January 3, 2013 investigation, it was documented that no liquid level indicator was installed at ground level for the standpipe.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Failure to have a liquid level indicator on the standpipe could expose customers of the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
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)	\$400	3-Jan-2013	1-Jun-2014	1.41	\$2	\$38	\$39
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 equip the standpipe with liquid level indicators, calculated from the date of the investigation 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

\$400

TOTAL

\$39

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to maintain a minimum disinfectant residual of 0.5 milligrams per liter ("mg/L") total chlorine throughout the distribution system at all times. Specifically, during the investigations conducted on January 3, 2013 and May 23, 2013, it was documented that water samples taken within the Facility's distribution system measured 0.21 mg/L and 0.09 mg/L total chlorine, respectively.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain a proper disinfectant residual could result in customers of the Facility being exposed to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 2

2 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

Two single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$407

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
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				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)	\$100	3-Jan-2013	1-Jun-2014	1.41	\$7	n/a	\$7

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that a disinfectant residual concentration of at least 0.5 mg/L total chlorine is maintained, calculated from the date of the investigation 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]	\$200	3-Jan-2013	4-Jan-2013	0.00	\$0	\$200	\$200
Other (as needed)	\$200	23-May-2013	24-May-2013	0.00	\$0	\$200	\$200

Notes for AVOIDED costs

The avoided cost includes the estimated amount for additional maintenance and oversight to ensure the disinfection equipment is operating properly and maintaining an adequate disinfection residual throughout the distribution system, calculated for the dates the low disinfectant residuals were documented.

Approx. Cost of Compliance

\$500

TOTAL

\$407

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2), (f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iv), and (f)(3)(A)(vii)

Violation Description

Failed to make water works operation and maintenance records available for review by Commission personnel during the investigation. Specifically, at the time of the January 3, 2013 investigation, the Respondent did not provide documentation of the amount of each chemical used each week, the amount of water produced each week, the dates that dead-end mains were flushed, and a daily record or monthly summary of the work performed and the number of hours worked by each part-time operator.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
		x	

Percent 2.5%

Matrix Notes

70% of the rule requirement was not met.

Adjustment \$975

\$25

Violation Events

Number of Violation Events 1

238 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$25

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$25

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$39

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
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	\$225	3-Jan-2013	1-Jun-2014	1.41	\$16	n/a	\$16
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 develop a record-keeping system (\$45 per record x 5 missing records), calculated from the date of the investigation 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

\$225

TOTAL

\$16

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(A)

Violation Description Failed to inspect the ground storage tank ("GST") and standpipe annually.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failure to inspect the GST and standpipe on an annual basis could result in non-detection of defects and could expose customers of the Facility to a significant amount of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

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 \$100

Two annual events are recommended (one event per tank).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$86

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	\$82	3-Jan-2012	3-Jan-2013	1.00	\$4	\$82	\$86
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

The avoided cost includes the estimated amount necessary to conduct inspections of the GST and standpipe, calculated for the 12-month period prior to the date of the investigation.

Approx. Cost of Compliance

\$82

TOTAL

\$86

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2)

Violation Description

Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies. Specifically, at the time of the January 3, 2013 investigation, it was documented that the Respondent did not have a map available for review.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 238

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

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	\$180	3-Jan-2013	1-Jun-2014	1.41	\$13	n/a	\$13
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 necessary to develop an accurate and up-to-date map of the distribution system, calculated from the date of the investigation 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	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$13

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3)

Violation Description Failed to make available for review copies of well completion data for Well No. 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 238

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$148

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 7

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)	\$1,500	3-Jan-2013	1-Jun-2014	1.41	\$7	\$141	\$148
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 provide the well completion data for this Facility's well, calculated from the date of the investigation 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

\$1,500

TOTAL

\$148

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 290.46(s)(1)

Violation Description

Failed to calibrate the Facility's well meter at least once every three years. Specifically, at the time of the January 3, 2013 investigation, it was documented that the well meter had not been calibrated in the previous three years.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to have the well meter properly calibrated could result in inaccurate water usage and production data, which could impact the treatment process. This could expose customers of the Facility to an insignificant amount of contaminants that would not exceed levels that are protective of human health.

Adjustment \$970

\$30

Violation Events

Number of Violation Events 1

238 Number of violation days

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

Violation Base Penalty \$30

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$30

Economic Benefit (EB) for this violation

Estimated EB Amount \$37

Statutory Limit Test

Violation Final Penalty Total \$47

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 8

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]	\$31	3-Jan-2010	3-Jan-2013	3.92	\$6	\$31	\$37
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meter, calculated for the three years prior to the investigation date.

Approx. Cost of Compliance \$31

TOTAL \$37

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

V12 9

Rule Cite(s) 30 Tex. Admin. Code § 290.46(s)(2)(C)(i)

Violation Description Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations. Specifically, at the time of the January 3, 2013 investigation, it was documented that the manual disinfectant residual analyzer was not being checked for accuracy at the required frequency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to verify the accuracy of the disinfectant residual analyzers could expose customers of the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3 Number of violation days 238

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

Violation Base Penalty \$150

Three quarterly events are recommended, calculated from the date of the investigation, January 3, 2013, to the date of screening, August 29, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$75

Violation Final Penalty Total \$233

This violation Final Assessed Penalty (adjusted for limits) \$233

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

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	\$80	5-Oct-2012	29-Aug-2013	0.90	\$4	\$72	\$75
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

The avoided cost includes the estimated amount to properly verify the accuracy of the manual disinfectant residual analyzers using chlorine solutions of known concentrations, calculated for 90 days prior to the date of the investigation to the date of screening.

Approx. Cost of Compliance	\$80	TOTAL	\$75
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Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 290.46(t)

Violation Description

Failed to post a legible ownership sign at the Facility's production, treatment, and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted. Specifically, at the time of the January 3, 2013 investigation, it was documented the the Respondent did not post an ownership sign at the standpipe.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

238 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	3-Jan-2013	1-Jun-2014	1.41	\$0	\$9	\$10
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 post a sign at the standpipe location, calculated from the date of the investigation 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

\$100

TOTAL

\$10

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements. Specifically, no monitoring plan was provided at the time of the January 3, 2013 investigation.

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 1 Number of violation days 238

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 11

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	\$180	3-Jan-2013	1-Jun-2014	1.41	\$13	n/a	\$13
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 necessary to develop and maintain an up-to-date chemical and microbiological monitoring plan, calculated from the date of the investigation 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

\$180

TOTAL

\$13

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 12

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

Violation Description

Failed to provide public notification regarding the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") for the first and second quarters of 2011 and failed to provide public notification regarding failure to collect a routine coliform monitoring sample for the month of April 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3

159 Number of violation days

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

Violation Base Penalty \$150

Three single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$233

This violation Final Assessed Penalty (adjusted for limits) \$233

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

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

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]	\$50	21-Sep-2011	22-Dec-2011	1.17	\$3	\$50	\$53
Other (as needed)	\$25	3-Jun-2013	9-Aug-2013	1.10	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notifications for DLQORs (\$25 per notice x 2 missed notices), calculated from the date the first notice was requested to the date the last notice was required. The other avoided cost includes the estimated amount to provide public notification for coliform-positive (\$25 per notice x 1 missed notice), calculated from the date the notice was requested to the date the notice was required.

Approx. Cost of Compliance

\$75

TOTAL

\$79

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 13

Rule Cite(s)

30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3) and TCEQ Agreed Order Docket No. 2011-1781-PWS-E, Ordering Provision Nos. 2.b.ii. and 2.d.

Violation Description

Failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent failed to submit DLQORs from the second quarter of 2012 through the first quarter of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 6

462 Number of violation days

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

Violation Base Penalty \$300

Six quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-1781-PWS-E, May 24, 2012, to the screening date, August 29, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$110

Violation Final Penalty Total \$465

This violation Final Assessed Penalty (adjusted for limits) \$465

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 13

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	24-May-2012	1-Jun-2014	2.02	\$5	n/a	\$5
Training/Sampling	\$100	24-May-2012	1-Jun-2014	2.02	\$10	n/a	\$10
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 update the Facility's operational guidance and conduct employee training to ensure that all DLQORs are submitted to the TCEQ in a timely manner, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-1781-PWS-E 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]	\$88	10-Jul-2012	10-Apr-2013	1.67	\$7	\$88	\$95
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit DLQORs (\$22 per report x 4 missed reports) of the failure to submit DLQORs, calculated from the date the report was due for the second quarter of 2012 to the date the report was due for the first quarter of 2013.

Approx. Cost of Compliance

\$233

TOTAL

\$110

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 14

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A) and TCEQ Agreed Order Docket No. 2011-1781-PWS-E, Ordering Provision Nos. 2.a., and 2.b.i.

Violation Description

Failed to collect one raw groundwater source Escherichia coli sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample and failed to provide public notification regarding the failure to collect a raw groundwater source sample. Specifically, the Respondent did not collect one raw groundwater source Escherichia coli sample for the month of October 2012; and failed to provide public notification regarding the failure to conduct raw groundwater source sampling during the month of October 2012.

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 collect all triggered source monitoring samples could result in customers served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 16

462 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,400

Sixteen monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-1781-PWS-E, May 24, 2012, to the date of screening, August 29, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	Before NOV	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 \$2,400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$62

Violation Final Penalty Total \$3,720

This violation Final Assessed Penalty (adjusted for limits) \$3,720

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 14

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	24-May-2012	1-Jun-2014	2.02	\$10	n/a	\$10
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 public notice is posted and reported to the Executive Director, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-1781-PWS-E 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]	\$25	1-Nov-2012	2-Nov-2012	0.00	\$0	\$25	\$25
Other (as needed)	\$25	9-Jan-2013	9-Apr-2013	1.16	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct triggered source monitoring of the drinking water (\$25 per sample x 1 missed sample), and the estimated amount to provide public notification (\$25 per notice x 1 missed notice), calculated for the 24-hour period after the coliform-positive result and the period public notice was required.

Approx. Cost of Compliance

\$150

TOTAL

\$62

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 15

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCR to the bill paying customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the year 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 365

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

Violation Base Penalty \$50

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$91

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 15

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]	\$82	1-Jul-2012	29-Aug-2013	2.08	\$9	\$82	\$91
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the 2011 CCR to the customers of the Facility and to the TCEQ (((0.50×63 connections) + \$50) × 1 year), calculated from the date the CCR was due to the screening date.

Approx. Cost of Compliance

\$82

TOTAL

\$91

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 16

Rule Cite(s) 30 Tex. Admin. Code § 290.122(b)(2)(A)

Violation Description Failed to provide public notification regarding the maximum contaminant level ("MCL") exceedance for October 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

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

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 25 Number of violation days

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$50

Economic Benefit (EB) for this violation

Estimated EB Amount \$25

Statutory Limit Test

Violation Final Penalty Total \$78

This violation Final Assessed Penalty (adjusted for limits) \$78

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 16

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed costs of compliance are captured in the Economic Benefit for Violation No. 14 on the Revision 3 PCW.

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	6-Nov-2012	1-Dec-2012	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification (\$25 per notice), calculated for the dates the notice was required.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 17

Rule Cite(s) 30 Tex. Admin. Code §§ 290.51(a)(6) and 21.4 and Tex. Water Code § 5.702

Violation Description

Failed to pay all annual Public Health Service fees for Fiscal year 2013 and Consolidated Water Quality fees for Fiscal years 2012 and 2013, including any associated late fees and penalties, for TCEQ Financial Administration Account Nos. 91040005 and 23004062.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$1,000

\$0

Violation Events

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

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$0

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$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 City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Public Water Supply
Violation No. 17

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

n/a

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

n/a

Approx. Cost of Compliance

\$0

TOTAL

\$0



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	26-Aug-2013	Screening	29-Aug-2013	EPA Due	31-Mar-2013
	PCW	29-Aug-2013				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of O'Brien		
Reg. Ent. Ref. No.	RN101386852		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42634	No. of Violations	1
Docket No.	2013-1642-MLM-E	Order Type	Findings
Media Program(s)	Water Rights	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 29-Aug-2013

Docket No. 2013-1642-MLM-E

PCW

Respondent City of O'Brien

Policy Revision 3 (September 2011)

Case ID No. 42634

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101386852

Media [Statute] Water Rights

Enf. Coordinator Abigail Lindsey

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>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with same/similar violations, one agreed order with a denial of liability, and an unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 55%

Screening Date 29-Aug-2013
Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media [Statute] Water Rights
Enf. Coordinator Abigail Lindsey

Docket No. 2013-1642-MLM-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 288.20(a) and 288.30(5)(B) and Tex. Water Code § 11.1272(c)

Violation Description Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier. Specifically, it was documented that the Respondent had not adopted a drought contingency plan.

Base Penalty \$5,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

238 **Number of violation days**

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$35

Violation Final Penalty Total \$388

This violation Final Assessed Penalty (adjusted for limits) \$388

Economic Benefit Worksheet

Respondent City of O'Brien
Case ID No. 42634
Reg. Ent. Reference No. RN101386852
Media Water Rights
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)	\$360	3-Jan-2013	1-Jun-2014	1.41	\$2	\$34	\$35
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 necessary to draft and adopt a drought contingency plan, calculated from the date of the investigation 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

\$360

TOTAL

\$35

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.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600738082, RN101386852, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600738082, City of O'Brien **Classification:** UNSATISFACTORY **Rating:** 81.00

Regulated Entity: RN101386852, City of O'Brien **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 1002 GRAND CENTRAL AVENUE, O' BRIEN, HASKELL COUNTY, TEXAS

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1040005 **WATER LICENSING LICENSE** 1040005

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: August 26, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 26, 2008 to August 26, 2013

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

Name: Abigail Lindsey

Phone: (512) 239-2576

Site and Owner/Operator History:

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

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

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

- 1 Effective Date: 05/24/2012 ADMINORDER 2011-1781-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 11/2010 - Failure to collect any repeats following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source Monitoring Violation 11/2010 - Failure to collect any triggered source monitoring sample(s) following a coliform found result for 1 source.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: GWR PN Triggered Source Monitoring Violation 11/2010 - Failure to post public notice for not collecting any triggered source monitoring sample(s) following a coliform found result for 1 source.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 12/2010 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Increase Monitoring Violation 12/2010 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 04/2011 - Failure to post public notice for not collecting any routine monitoring sample(s).

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: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

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: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2011.

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: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2011.

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: 12/14/2012 (1113281) | CN600738082 |
| | 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 1Q2011 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 during the 1st quarter of 2011. | |
| | 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 2Q2011 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 during the 2nd quarter of 2011. | |
| 2 | Date: 01/17/2013 (1113281) | CN600738082 |
| | Self Report? NO | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
30 TAC Chapter 290, SubChapter F 290.109(e) | |
| | Description: GWR Triggered Source MR Violations 10/2012 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result for one source within the required timeline. | |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF O'BRIEN
RN101386852**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-1642-MLM-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of O'Brien (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE chs. 5 and 11. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 1002 Grand Central Avenue in O'Brien, Haskell County, Texas (the "Facility") that has approximately 63 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(50).
3. During an investigation conducted on January 3, 2013, TCEQ staff documented that no plant operations manual was available.
4. During an investigation conducted on January 3, 2013, TCEQ staff documented that no liquid level indicator was installed at the ground level for the standpipe.
5. During investigations conducted on January 3, 2013 and May 23, 2013, TCEQ staff documented that water samples taken within the Facility's distribution system measured 0.21 milligrams per liter ("mg/L") and 0.09 mg/L total chlorine, respectively.
6. During an investigation conducted on January 3, 2013, TCEQ staff documented the Respondent did not provide documentation of the amount of each chemical used each week, the amount of water produced each week, the dates that dead-end mains were flushed, and a daily record or monthly summary of the work performed and the number of hours worked by each part-time operator.
7. During an investigation conducted on January 3, 2013, TCEQ staff documented the Respondent did not inspect the ground storage tank ("GST") and standpipe annually.
8. During an investigation conducted on January 3, 2013, TCEQ staff documented the Respondent did not have a map of the distribution system available for review.
9. During an investigation conducted on January 3, 2013, TCEQ staff documented the Respondent did not have available for review well completion data for Well No. 1
10. During an investigation conducted on January 3, 2013, TCEQ staff documented that the flow meter had not been calibrated in the previous three years.
11. During an investigation conducted on January 3, 2013, TCEQ staff documented that the manual disinfectant residual analyzers was not being checked for accuracy at the required frequency.
12. During an investigation conducted on January 3, 2013, TCEQ staff documented the Respondent did not post an ownership sign at the standpipe.
13. During an investigation conducted on January 3, 2013, TCEQ staff documented that no monitoring plan was provided at the time of the investigation.
14. During a record review conducted on July 22, 2013, TCEQ staff documented the Respondent did not provide public notification regarding the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") for the first and second quarters of 2011 and failed to provide public notice regarding the failure to collect a routine coliform monitoring sample for the month of April 2013.

15. During a record review conducted on July 19, 2013, TCEQ staff documented the Respondent did not provide a DLQOR from the second quarter of 2012 through the first quarter of 2013.
16. During record reviews conducted on July 19, 2013 and July 22, 2013, TCEQ staff documented the Respondent did not collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample for the month of October 2012 and did not provide public notification regarding the failure to collect a raw groundwater source sample for the month of October 2012.
17. During a record review conducted on July 22, 2013, TCEQ staff documented the Respondent did not mail or directly deliver the Consumer Confidence Report ("CCR") to the bill paying customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years of 2010 and 2011.
18. During a record review conducted on July 22, 2013, TCEQ staff documented the Respondent did not provide public notification regarding the maximum contaminant level ("MCL") exceedance for October 2012.
19. During an investigation conducted on January 3, 2013, TCEQ staff documented the Respondent had not adopted a drought contingency plan.
20. During a record review conducted on August 29, 2013, TCEQ staff documented the Respondent did not pay all annual Public Health Service fees for Fiscal year 2013 and Consolidated Water Quality fees for Fiscal years 2012 and 2013 including any associated late fees and penalties for Account Nos. 91040005 and 23004062.
21. The Respondent received notice of the violations on February 6, 2013, July 11, 2013, July 31, 2013 and August 21, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE chs. 5 and 11 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to compile and maintain a plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).

3. As evidenced by Findings of Fact No. 4, the Respondent failed to provide the water storage tank with a water level indicator located at the tank site, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4).
4. As evidenced by Findings of Fact No. 5, the Respondent failed to maintain a minimum disinfectant residual of 0.5 mg/L total chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to make water works operation and maintenance records available for review by Commission personnel during the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iv), and (f)(3)(A)(vii).
6. As evidenced by Findings of Fact No. 7, the Respondent failed to inspect the GST and standpipe annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
7. As evidenced by Findings of Fact No. 8, the Respondent failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).
8. As evidenced by Findings of Fact No. 9, the Respondent failed to make available for review copies of well completion data for Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3).
9. As evidenced by Findings of Fact No. 10, the Respondent failed to calibrate the Facility's well meter at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
10. As evidenced by Findings of Fact No. 11, the Respondent failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i).
11. As evidenced by Findings of Fact No. 12, the Respondent failed to post a legible ownership sign at the Facility's production, treatment, and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t).
12. As evidenced by Findings of Fact No. 13, the Respondent failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).

13. As evidenced by Findings of Fact No. 14, the Respondent failed to provide public notification regarding the failure to submit DLQOR and failed to provide public notification regarding the failure to conduct routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).
14. As evidenced by Findings of Fact No. 15, the Respondent failed to submit DLQORs to the Executive Director by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3) and TCEQ Agreed Order Docket No. 2011-1781-PWS-E, Ordering Provision Nos. 2.b.ii. and 2.d.
15. As evidenced by Findings of Fact No. 16, the Respondent failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample and failed to provide public notification regarding the failure to collect a raw groundwater source sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A) and TCEQ Agreed Order Docket No. 2011-1781-PWS-E, Ordering Provision Nos. 2.a. and 2.b.i.
16. As evidenced by Findings of Fact No. 17, the Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
17. As evidenced by Findings of Fact No. 18, the Respondent failed to provide public notification regarding the MCL exceedance for October 2012, in violation of 30 TEX. ADMIN. CODE § 290.122(b)(2)(A).
18. As evidenced by Findings of Fact No. 19, the Respondent failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B) and TEX. WATER CODE § 11.1272(c).
19. As evidenced by Findings of Fact No. 20, the Respondent failed to pay all annual Public Health Service fees and Consolidated Water Quality fees, in violation of 30 TEX. ADMIN. CODE §§ 290.51(a)(6) and 21.4 and TEX. WATER CODE § 5.702.
20. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
21. An administrative penalty in the amount of Six Thousand One Hundred Ninety-Four Dollars (\$6,194) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The

Respondent has paid One Hundred Seventy-Four Dollars (\$174) of the administrative penalty. The remaining amount of Six Thousand Twenty Dollars (\$6,020) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Seventy-Two Dollars (\$172) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand One Hundred Ninety-Four Dollars (\$6,194) as set forth in Section II, Paragraph 21 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of O'Brien, Docket No. 2013-1642-MLM-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2013 to each bill paying customer and make good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274;
 - ii. Implement procedures to ensure that all necessary public notifications are

- provided in a timely manner to the customers of the Facility including but not limited to: providing public notification for the failure to submit DLQORs, the failure to collect routine samples, and for the failure to comply with an MCL, in accordance with 30 TEX. ADMIN. CODE § 290.122;
- iii. Begin complying with applicable coliform monitoring requirements by collecting one raw groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was 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 consecutive months of compliant monitoring and reporting at the Facility;
 - iv. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110;
 - v. Develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in accordance with 30 TEX. ADMIN. CODE § 290.121;
 - vi. Begin compiling and maintaining properly completed monthly water works operation reports and maintenance records, including but not limited to: the amount and type of chemicals used each week; the amount of water produced each week, the dates that the dead-end mains were flushed, and a daily record or monthly summary of the work performed and the number of hours worked by each part-time operator, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - vii. Begin verifying the accuracy of the manual disinfectant residual analyzer once every 90 days using chlorine solutions of known concentrations, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - viii. Calibrate the well meter, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ix. Conduct an annual inspection of the Facility's GST and standpipe, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - x. Provide a legible sign with the Facility name and an emergency telephone number where a responsible official can be contacted at the standpipe, in accordance with 30 TEX. ADMIN. CODE § 290.46;

- xi. Install and begin operating disinfection facilities to continuously maintain an adequate disinfectant residual throughout the distribution system for the purpose of microbiological control and distribution protection, in accordance with 30 TEX. ADMIN. CODE § 290.46;
- xii. Update the Facility's operational guidance and conduct employee training to ensure that a disinfectant residual concentration of at least 0.5 mg/L total chlorine is maintained throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon six months of daily compliant monitoring and reporting; and
- xiii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account Nos. 91040005 and 23004062, in accordance with 30 TEX. ADMIN. CODE §§ 290.51 (a)(6) and 21.4 and TEX. WATER CODE § 5.702. The payment shall be sent with the notation "City of O'Brien, Financial Administration Account Nos. 91040005 and 23004062" 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 Agreed Order:
 - i. Submit to the Commission a copy of the CCR provided to customers of the Facility and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

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

- ii. Submit written certification as described in Ordering Provision No. 2.i. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i., 2.a.ii., and 2.a.iv. through 2.a.xi.

- c. Within 60 days after the effective date of this Agreed Order:
- i. Begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42;
 - ii. Equip the standpipe with a liquid level indicator, in accordance with 30 TEX. ADMIN. CODE § 290.43;
 - iii. Submit and adopt a drought contingency plan that includes all elements for municipal use by a retail public water supplier, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iv. Provide an up-to-date map of the distribution system that includes the locations of all mains and valves, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - v. Submit written certification as described in Ordering Provision No. 2.i. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.i.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i. through 2.c.iv.
- e. Within 90 days after the effective date of this Agreed Order, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:
- DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- f. Within 180 days after the effective date of this Agreed Order, provide a copy of well completion data which includes but is not limited to: well material setting data, geological log, sealing information, disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well, in accordance with 30 TEX. ADMIN. CODE § 290.46; and

- g. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.f.
- h. Within 225 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.iii. and 2.a.xii.
- i. Within 285 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

and:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Marling
For the Executive Director

9/15/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of O'Brien. I am authorized to agree to the attached Agreed Order on behalf of City of O'Brien, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, City of O'Brien waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

[Signature]
Signature

07-11-14
Date

JIM JOHNSTON
Name (Printed or typed)
Authorized Representative of
City of O'Brien

City Council Member
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.