

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 53003
Ray Eidson dba Country RV Park
RN107349532
Docket No. 2016-1370-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

3807 South Country Road, Midland, Midland County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	2018-0370-PWS-E (Signed Order received May 5, 2018)
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: July 27, 2018

Comments Received: None

Penalty Information

Total Penalty Assessed: \$835

Total Paid to General Revenue: \$835

Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN – Unclassified
Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 53003
Ray Eidson dba Country RV Park
RN107349532
Docket No. 2016-1370-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 20, 2016 to July 8, 2016
Date(s) of NOV(s): See Compliance History – 7 related NOVs
Date(s) of NOE(s): July 8, 2016

Violation Information

1. Failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample during the month of December 2015 [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)¹].
2. Failed to issue public notification and submit a copy of the public notification regarding the failure to collect increased water samples for coliform analysis during the month of January 2016, the failure to collect repeat water samples for coliform analysis during the month of December 2015, and the failure to collect routine water samples for coliform analysis during the months of February through May 2015, and September through November 2015 [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].

Corrective Actions/Technical Requirements

Technical Requirements:

Respondent no longer owns or operates the facility as of September 27, 2017.

Litigation Information

Date Petition(s) Filed: April 26, 2018
Date Green Card(s) Signed: May 10, 2018
Date Answer(s) Filed: N/A
Settlement Date: July 9, 2018

Contact Information

TCEQ Attorneys: Logan Harrell, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Division Agenda Coordinator: Janice Hernandez, (512) 239-2575
TCEQ Enforcement Coordinator: Sarah Kim, Enforcement Division, (512) 239-4728
TCEQ Regional Contact: Ryan Slocum, Midland Regional Office, (432) 570-1359
Respondent Contact: Ray Eidson, 607 White Mountain Meadows Drive, Ruidoso, New Mexico 88345

¹ 30 TEX. ADMIN. CODE § 290.109(c)(4)(B) is now found at 30 TEX. ADMIN. CODE § 290.109(d)(4)(B) amended to be effective, March 30 2017, 42 Tex. Reg. 1466.



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	11-Jul-2016	Screening	15-Jul-2016	EPA Due	30-Sep-2016
	PCW	5-Aug-2016				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ray Eidson dba Country RV Park
Reg. Ent. Ref. No.	RN107349532
Facility/Site Region	7-Midland
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	53003	No. of Violations	2
Docket No.	2016-1370-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Sarah Kim
		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	\$600
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	35.0% Adjustment	Subtotals 2, 3, & 7	\$210
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Notes	Enhancement for seven NOVs with the same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$33	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$170	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$810
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.1%	Adjustment	\$25
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement recommended for the recovery of avoided costs of compliance for Violation No. 1.
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Final Penalty Amount	\$835
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$835
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$835
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Screening Date 15-Jul-2016

Docket No. 2016-1370-PWS-E

PCW

Respondent Ray Eidson dba Country RV Park

Policy Revision 4 (April 2014)

Case ID No. 53003

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107349532

Media [Statute] Public Water Supply

Enf. Coordinator Sarah Kim

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	7	35%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 35%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for seven NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 15-Jul-2016

Docket No. 2016-1370-PWS-E

PCW

Respondent Ray Eidson dba Country RV Park

Policy Revision 4 (April 2014)

Case ID No. 53003

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107349532

Media [Statute] Public Water Supply

Enf. Coordinator Sarah Kim

Violation Number 1

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

Violation Description Failed to collect one raw groundwater source Escherichia coli sample from the Facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample during the month of December 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes Failure to conduct raw groundwater sampling could result in persons 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 1 Number of violation days 31

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and Count.

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and Status (Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer).

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 \$25

Violation Final Penalty Total \$209

This violation Final Assessed Penalty (adjusted for limits) \$209

Economic Benefit Worksheet

Respondent Ray Eidson dba Country RV Park
Case ID No. 53003
Reg. Ent. Reference No. RN107349532
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	22-Dec-2015	23-Dec-2015	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 collect raw groundwater source samples from the Facility's one active source (\$25 per sample x one monitoring period), calculated for the 24-hour period after the coliform-positive result.

Approx. Cost of Compliance \$25

TOTAL \$25

Screening Date 15-Jul-2016
Respondent Ray Eidson dba Country RV Park
Case ID No. 53003
Reg. Ent. Reference No. RN107349532
Media [Statute] Public Water Supply
Enf. Coordinator Sarah Kim

Docket No. 2016-1370-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 2

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

Violation Description

Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect increased water samples for coliform analysis during the month of January 2016, the failure to collect repeat water samples for coliform analysis during the month of December 2015, and the failure to collect routine water samples for coliform analysis during the months of February through May 2015 and September through November 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
	100% of the rule requirements were not met.				

Adjustment \$950

\$50

Violation Events

Number of Violation Events 9 273 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$450

Nine single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$626

This violation Final Assessed Penalty (adjusted for limits) \$626

Economic Benefit Worksheet

Respondent Ray Eidson dba Country RV Park
Case ID No. 53003
Reg. Ent. Reference No. RN107349532
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	20-Jun-2016	30-Mar-2017	0.78	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$45	10-Jun-2015	30-Mar-2017	1.81	\$4	n/a	\$4

Notes for DELAYED costs

The training/sampling delayed cost includes the estimated amount to implement procedures to ensure that all necessary public notifications are issued in a timely manner, calculated from the record review date to the estimated date of compliance.

The other delayed cost includes the estimated amount to ensure that all delinquent public notifications (\$5 per notification x nine notifications) are issued to persons served by the Facility and a copy of each public notification is provided to the Executive Director, calculated from the due date of the earliest public notification to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$145

TOTAL \$8

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

Compliance History Report for CN604472415, RN107349532, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

Customer, Respondent, or Owner/Operator: CN604472415, Eidson, Ray **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN107349532, COUNTRY RV PARK **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 3807 SOUTH COUNTY ROAD 1210 NEAR MIDLAND, MIDLAND COUNTY, TEXAS

TCEQ Region: REGION 07 - MIDLAND

ID Number(s):
WATER QUALITY NON PERMITTED ID NUMBER ID07 **PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1650152**

Compliance History Period: September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

Date Compliance History Report Prepared: September 20, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 20, 2011 to September 20, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Sarah Kim **Phone:** (512) 239-4728

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 June 16, 2014 (1174097)

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: 10/05/2015 (1343027)
- 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: MAY/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform

monitoring for the month of 05/2015.

- 2 Date: 03/24/2016 (1343027)
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: SEP/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 09/2015.
- 3 Date: 03/30/2016 (1343027)
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: OCT/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 10/2015.
- 4 Date: 04/08/2016 (1343027)
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: NOV/2015 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 11/2015.
- 5 Date: 04/11/2016 (1343027)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source MR Violation 12/2015 - Failure to collect and/or report any triggered source monitoring sample(s) following a coliform found result within the required timeline.
- 6 Date: 05/17/2016 (1343027)
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: DEC/2015 TCR Repeat MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct repeat coliform monitoring for the month of 12/2015.
- 7 Date: 06/17/2016 (1343027)
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: JAN/2016 TCR Increase MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct increase coliform monitoring for the month of 01/2016.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RAY EIDSON DBA COUNTRY RV
PARK;
RN107349532**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2016-1370-PWS-E

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

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

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

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

FINDINGS OF FACT

1. Respondent owned and operated a public water system located at 3807 South County Road 1210 near Midland, Midland County, Texas (the "Facility"). The Facility provided water for human consumption, had approximately 14 service connections, and served at least 25 people per day for at least 60 days per year. As such, the Facility was a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review conducted from June 20, 2016 to July 8, 2016, an investigator documented that Respondents:
 - a. Failed to collect one raw groundwater source *Escherichia coli* ("E. coli") sample from the Facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample during the month of December 2015; and

- b. Failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect increased water samples for coliform analysis during the month of January 2016, the failure to collect repeat water samples for coliform analysis during the month of December 2015, and the failure to collect routine water samples for coliform analysis during the months of February through May 2015, and September through November 2015.
3. The Executive Director recognizes that Respondent no longer owns or operate the Facility as of September 27, 2017.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the TCEQ's rules.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect one raw groundwater source *E. coli* sample from the Facility's one active source within 24 hours of notification of a distribution total coliform-positive result on a routine sample during the month of December 2015, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B)¹.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to issue public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect increased water samples for coliform analysis during the month of January 2016, the failure to collect repeat water samples for coliform analysis during the month of December 2015, and the failure to collect routine water samples for coliform analysis during the months of February through May 2015, and September through November 2015, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of eight hundred thirty-five dollars (\$835.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Respondent paid eight hundred thirty-five dollars (\$835.00) of the penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusions of Law No. 5 for violations of state statutes and the TCEQ's rules. The payment of

¹ 30 TEX. ADMIN. CODE § 290.109(c)(4)(B) is now found at 30 TEX. ADMIN. CODE § 290.109(d)(4)(B) amended to be effective, March 30 2017, 42 Tex. Reg. 1466.

this penalty will resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.

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

transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Margi Ligarde

For the Executive Director

Aug. 3, 2018

Date

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

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

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

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

Ray Eidson

Signature - Ray Eidson
315 Eagle Creek Canyon
Ruidoso, New Mexico 88345

7-9-18

Date

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

607 White Mountain Meadows Dr, Ruidoso, NM 88345