

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 58750  
Nigton-Wakefield Water Supply Corporation  
RN101219277  
Docket No. 2020-0019-PWS-E

Page 1 of 2

**Order Type:**  
Default Order

**Media:**  
PWS

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
on Farm-to-Market Road 2262 approximately one mile southeast of State Highway 94 near Nigton,  
Trinity County

**Type of Operation:**  
public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions:	Yes, 2022-0745-MLM-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** September 2, 2022

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$2,430

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$2,430

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** December 9, 2019 through December 20, 2019

**Date(s) of NOV(s):** May 7, 2019; October 22, 2019; December 3, 2019

**Date(s) of NOE(s):** December 20, 2019

**Nigton-Wakefield Water Supply Corporation**

RN101219277

Docket No. 2020-0019-PWS-E

**Violation Information**

1. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the locational running annual average [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1)].
2. Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5") based on the locational running annual average [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1)].

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

None

**Technical Requirements:**

1. Within 365 days:
  - a. Return to compliance with the MCL for TTHM based on the locational running annual average; and
  - b. Return to compliance with the MCL for HAA5 based on the locational running annual average.
2. Within 380 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a and 1.b.

**Litigation Information****Date Petition(s) Filed:** February 15, 2022; March 30, 2022**Date Green Card(s) Signed:** unclaimed; unclaimed**Date Answer(s) Filed:** N/A**Contact Information****TCEQ Attorneys:** Megan L. Grace, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575**TCEQ Enforcement Coordinator:** Ryan Byer, Enforcement Division, (512) 239-2571**TCEQ Regional Contact:** Ronald Hebert, Beaumont Regional Office, (409) 898-3838**Respondent Contact:** Hollis Lakey, President, Nigton-Wakefield Water Supply Corporation, P.O. Box  
117, Apple Springs, Texas 75926**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

TCEQ

<b>DATES</b>	<b>Assigned</b>	6-Jan-2020	<b>Screening</b>	6-Jan-2020	<b>EPA Due</b>	30-Sep-2019
	<b>PCW</b>	8-Jan-2020				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Nigton-Wakefield Water Supply Corporation				
<b>Reg. Ent. Ref. No.</b>	RN101219277				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58750	<b>No. of Violations</b>	2
<b>Docket No.</b>	2020-0019-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ryan Byer
		<b>EC's Team</b>	Enforcement Team 8
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,500
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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.

<b>Compliance History</b>	62.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$930
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Notes: Enhancement for three NOV's with the same/similar violations, one NOV with dissimilar violations, one agreed order containing a denial of liability, and one agreed order without a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$807  
Estimated Cost of Compliance \$5,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$2,430
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$2,430
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,430
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<b>DEFERRAL</b>	0.0%	<b>Reduction</b>	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$2,430
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<b>Screening Date</b>	6-Jan-2020	<b>Docket No.</b>	2020-0019-PWS-E	<b>PCW</b>
<b>Respondent</b>	Nigton-Wakefield Water Supply Corporation			<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58750			<i>PCW Revision September 1, 2019</i>
<b>Reg. Ent. Reference No.</b>	RN101219277			
<b>Media</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Ryan Byer			

## 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> )	3	15%
	Other written NOVs	1	2%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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)** 62%

### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

### >> Compliance History Summary

#### Compliance History Notes

Enhancement for three NOVs with the same/similar violations, one NOV with dissimilar violations, one agreed order containing a denial of liability, and one agreed order without a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 62%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 62%

**Screening Date** 6-Jan-2020  
**Respondent** Nigton-Wakefield Water Supply Corporation  
**Case ID No.** 58750  
**Reg. Ent. Reference No.** RN101219277  
**Media** Public Water Supply  
**Enf. Coordinator** Ryan Byer

**Docket No.** 2020-0019-PWS-E

**PCW**

*Policy Revision 4 (April 2014)  
PCW Revision September 1, 2019*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

**Violation Description** Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts ("DBP2") at Site 2 were 0.087 mg/L for the first quarter of 2019, 0.150 mg/L for the second quarter of 2019, and 0.164 mg/L for the third quarter of 2019, based on samples taken on March 29, 2019, June 27, 2019, and September 25, 2019, respectively.

**Base Penalty** \$5,000

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

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

### >> Programmatic Matrix

	Falsification				Percent
		Major	Moderate	Minor	
					0.0%

**Matrix Notes** Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

**Adjustment** \$4,250

\$750

### Violation Events

Number of Violation Events 1 272 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

**Violation Base Penalty** \$750

One annual event is recommended.

### Good Faith Efforts to Comply

0.0%

**Reduction** \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

**Violation Subtotal** \$750

### Economic Benefit (EB) for this violation

### Statutory Limit Test

**Estimated EB Amount** \$807

**Violation Final Penalty Total** \$1,215

**This violation Final Assessed Penalty (adjusted for limits)** \$1,215

# Economic Benefit Worksheet

**Respondent** Nigton-Wakefield Water Supply Corporation  
**Case ID No.** 58750  
**Reg. Ent. Reference No.** RN101219277  
**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	Costs Saved	EB Amount
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## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Mar-2019	20-Jul-2021	2.31	\$38	\$769	\$807
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.						

## Avoided Costs

### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	\$5,000	<b>TOTAL</b>	\$807
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<b>Screening Date</b>	6-Jan-2020	<b>Docket No.</b>	2020-0019-PWS-E	<b>PCW</b>	
<b>Respondent</b>	Nigton-Wakefield Water Supply Corporation				<i>Policy Revision 4 (April 2014)</i>
<b>Case ID No.</b>	58750				<i>PCW Revision September 1, 2019</i>
<b>Reg. Ent. Reference No.</b>	RN101219277				
<b>Media</b>	Public Water Supply				
<b>Enf. Coordinator</b>	Ryan Byer				
<b>Violation Number</b>	2				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)				
<b>Violation Description</b>	Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5") based on the locational running annual average. Specifically, the locational running annual average concentrations for HAA5 for DBP2 at Site 2 were 0.100 mg/L for the second quarter of 2019 and 0.104 mg/L for the third quarter of 2019, based on samples taken on June 27, 2019 and September 25, 2019, respectively.				
		<b>Base Penalty</b>	\$5,000		

  

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

<b>OR</b>		<b>Release</b>	<b>Harm</b>		
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text"/> x	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b>	15.0%

  

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b>	0.0%

  

<b>Matrix Notes</b>	Exceeding the MCL for HAA5 caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.
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<b>Adjustment</b>	\$4,250
	\$750

  

**Violation Events**

Number of Violation Events	1	Number of violation days	182
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	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input checked="" type="text"/> x		
	single event	<input type="text"/>		

  

One annual event is recommended.

  

**Good Faith Efforts to Comply**

	<b>0.0%</b>			Reduction	\$0
	Before NOE/NOV	NOE/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"/> x	<input type="text"/>			
Notes	The Respondent does not meet the good faith criteria for this violation.				

  

<b>Violation Subtotal</b>	\$750
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**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	\$0	<b>Statutory Limit Test</b>	
		<b>Violation Final Penalty Total</b>	\$1,215
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$1,215

# Economic Benefit Worksheet

**Respondent** Nigton-Wakefield Water Supply Corporation  
**Case ID No.** 58750  
**Reg. Ent. Reference No.** RN101219277  
**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	Costs Saved	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	The delayed cost for the estimated amount necessary to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for HAA5 is captured in the Economic Benefit for Violation No. 1.						

## Avoided Costs

### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance \$0

**TOTAL** \$0





# Compliance History Report

Compliance History Report for CN600661094, Nigton-Wakefield Water Supply Corporation, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600661094, Nigton-Wakefield Water Supply Corporation	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Regulated Entity:</b>	RN101219277, NIGTON WAKEFIELD WSC	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	ON FARM-TO-MARKET ROAD 2262, APPROXIMATELY ONE MILE SOUTHEAST OF STATE HIGHWAY 94 NEAR NIGTON, TRINITY COUNTY				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2280036				
<b>Compliance History Period:</b>	September 01, 2014 to August 31, 2019	<b>Rating Year:</b>	2019	<b>Rating Date:</b>	09/01/2019
<b>Date Compliance History Report Prepared:</b>	January 06, 2020				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	January 06, 2015 to January 06, 2020				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Ryan Byer		<b>Phone:</b>	(512) 239-2571	

## 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  |

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

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

- |   |  |   |
|---|--|---|
| 1 | Effective Date: 03/01/2016   | ADMINORDER 2015-1338-PWS-E (1660 Order-Agreed Order With Denial)        |
|   | Classification: Major  |   |
|   | Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)   |   |
|   | 30 TAC Chapter 290, SubChapter F 290.110(b)(4)   |   |
|   | 5A THSC Chapter 341, SubChapter A 341.0315(c)  |   |
|   | Description: Failed to maintain a disinfectant residual of at least 0.5 milligrams per liter ("mg/L") of chloramine (measured as total chlorine) throughout the distribution system at all times. Specifically, on June 11, 2015, samples were taken at 20101 North State Highway 94 near Lufkin, Texas and at 180 Giles Road near Apple Springs, and they had total chlorine residuals of 0.18 mg/L and 0.25 mg/L, respectively.  |   |
| 2 | Effective Date: 08/05/2019   | ADMINORDER 2018-0864-PWS-E (Findings Order-Agreed Order Without Denial) |
|   | Classification: Moderate   |   |
|   | Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)   |   |
|   | 30 TAC Chapter 290, SubChapter F 290.110(b)(4)   |   |
|   | 5A THSC Chapter 341, SubChapter A 341.0315(c)  |   |
|   | Description: Failed to maintain a disinfectant residual of 0.5 milligrams per liter ("mg/L") of chloramine (measured as total chlorine) throughout the distribution system at all times. Specifically, on April 11, 2018, a sample collected from the distribution system at the complainant's address had a disinfectant residual concentration of 0.43 mg/L total chlorine and a sample collected at 11875 Farm-to-Market Road 2501 had a disinfectant residual concentration of 0.42 mg/L total chlorine. |   |

### **B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 2	February 24, 2017	(1371349)
Item 3	March 27, 2017	(1400290)
Item 4	May 11, 2017	(1402356)

**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: 05/07/2019 (1617037)	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)	
	Description: TTHM LRAA MCL 1Q2019 - During the 1st quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.087 mg/L at 912 White Rd, Apple Springs (DBP2-02).	
2	Date: 07/03/2019 (1576341)	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)	
	Description: Failure by Nigton Wakefield WSC to have a plant operation manual.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(i)	
	Description: Failure by Nigton Wakefield WSC to maintain records of granted exceptions.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)	
	Description: Failure by Nigton Wakefield WSC to have a monitoring plan.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 288, SubChapter B 288.20	
	Description: Failure by Nigton Wakefield WSC to have a drought contingency plan.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)	
	Description: Failure by Nigton Wakefield WSC to post an ownership sign at the plant.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)	
	Description: Failure by Nigton Wakefield WSC to have secondary containment structures for chemical storage facilities.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)	
	Description: Failure by Nigton Wakefield WSC to maintain a fresh bottle of ammonia solution readily available outside of the chlorinator room.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)	
	Description: Failure by Nigton Wakefield WSC to cover the air release devices on both pressure tanks with 16 - mesh or finer corrosion-resistant screening material.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)	
	Description: Failure by Nigton Wakefield WSC to maintain the water systems equipment in good working condition and general appearance.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)	
	Description: Failure by Nigton Wakefield WSC to maintain the water systems equipment in good working condition and general appearance.	
	Self Report? NO	Classification: Minor
	Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)	
	Description: Failure by Nigton Wakefield WSC to have operating records accessible for review upon request.	
3	Date: 10/22/2019 (1617037)	
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)	
	Description: HAA5/TTHM LRAA MCL 2Q2019 - During the 2nd quarter of 2019 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.100 mg/L at 912 White Rd (DBP2-02); and the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.150 mg/L at 912 White Rd	

(DBP2-02).

4      Date:      12/03/2019      (1617037)  
Self Report?      NO      Classification:      Moderate  
Citation:      30 TAC Chapter 290, SubChapter F 290.115(f)(1)  
Description:      HAA5/TTHM LRAA MCL 3Q2019 - During the 3rd quarter of 2019 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.104 mg/L at 912 White Rd (DBP2-02); and the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.164 mg/L at 912 White Rd (DBP2-02).

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NIGTON-WAKEFIELD WATER  
SUPPLY CORPORATION;  
RN101219277

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2020-0019-PWS-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Nigton-Wakefield Water Supply Corporation ("Respondent").

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

### FINDINGS OF FACT

1. Respondent owns and operates a public water system ("PWS") located on Farm-to-Market Road 2262 approximately one mile southeast of State Highway 94 near Nigton, Trinity County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 137 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a PWS as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review conducted from December 9, 2019, to December 20, 2019, an investigator documented that Respondent:
  - a. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts ("DBP2") at Site 2 were 0.087 mg/L for the first quarter of 2019, 0.150 mg/L for the second quarter of 2019, and 0.164 mg/L for the third quarter of 2019, based on samples taken on March 29, 2019, June 27, 2019, and September 25, 2019, respectively; and
  - b. Failed to comply with the MCL of 0.060 mg/L for haloacetic acids ("HAA5") based on the locational running annual average. Specifically, the locational running annual average concentrations for HAA5 for DBP2 at Site 2 were 0.100 mg/L for the second quarter of 2019 and 0.104 mg/L for the third quarter of 2019, based on samples taken on June 27, 2019, and September 25, 2019, respectively.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Nigton-Wakefield Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on February 15, 2022.
4. The EDPRP was mailed to Respondent's last known address on February 15, 2022, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

5. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on March 30, 2022.
6. By letter dated March 30, 2022, sent to Respondent's last known address via certified mail, return receipt requested, and via first-class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first-class mail has not been returned, indicating that Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with the MCL of 0.080 mg/L for TTHM based on the locational running annual average, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to comply with the MCL of 0.060 mg/L for HAA5 based on the locational running annual average, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.115(f)(1).
4. As evidenced by Findings of Fact Nos. 3 through 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand four hundred thirty dollars (\$2,430.00) 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).
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of two thousand four hundred thirty dollars (\$2,430.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made

out to TCEQ and shall be sent with the notation "Re: Nigton-Wakefield Water Supply Corporation; Docket No. 2020-0019-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Within 365 days after the effective date of this Order:
    - i. Return to compliance with the MCL for TTHM based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
    - ii. Return to compliance with the MCL for HAA5 based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
  - b. Within 380 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what

constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF MEGAN L. GRACE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Nigton-Wakefield Water Supply Corporation' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 15, 2022.

The EDPRP was mailed to Respondent's last known address on February 15, 2022, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as 'unclaimed.'

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on March 30, 2022.

The EDPRP was mailed to Respondent's last known address on March 30, 2022, via certified mail, return receipt requested, and via first-class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first-class mail has not been returned, indicating that Respondent received notice of the EDPRP in accordance with 30 Tex. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Megan L. Grace, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 9<sup>th</sup> day of August, 2022

A handwritten signature in black ink, appearing to read "Megan L. Grace".

Declarant