

City of Leona
RN101404002
Docket No. 2020-0762-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order

Media:

PWS

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

350 feet from the intersection of Texas State Highway 75 and Farm-to-Market Road 977, Leona, Leon County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third Parties:	None

Texas Register Publication Date:	June 10, 2022
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Comments Received:	None
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Penalty Information

Total Penalty Assessed:	\$253
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Total Paid to General Revenue:	\$253
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Total Due to General Revenue:	\$0
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Compliance History Classifications:

Person/CN - Unclassified
Site/RN - Not Applicable

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

Complaint Date(s):	N/A
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Date(s) of Investigation:	May 5, 2020; May 11, 2020 through May 22, 2020
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Date(s) of NOV(s):	October 9, 2019; October 11, 2019
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Date(s) of NOE(s):	May 27, 2020; May 22, 2020
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City of Leona
RN101404002
Docket No. 2020-0762-PWS-E

Violation Information

1. Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements [30 TEX. ADMIN. CODE § 290.117(i)(6) and (j) and TCEQ Agreed Order Docket No. 2018-0016-PWS-E, Ordering Provision No. 2.a.iii.].
2. Failed to mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) to each bill paying customer by July 1 for each year, and failed to submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to customers 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) and TCEQ Agreed Order Docket No. 2018-0016-PWS-E, Ordering Provision Nos. 2.a.iv. and 2.b.ii.].
3. Failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Respondent performed the following corrective measures at the Facility:
 - a. As of November 3, 2020, provided a consumer notification of lead tap water monitoring results to persons served at sites (taps) that were tested, and mailed a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification was distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2018 monitoring period;
 - b. As of July 1, 2020, mailed or directly delivered one copy of the CCR to each bill paying customer, and submitted to the TCEQ a copy of the annual CCR and certification that the CCR was distributed to customers and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2018; and
 - c. As of November 25, 2020, provided public notification and submitted a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2015 through December 31, 2017 monitoring period.

Technical Requirements:

None

Litigation Information

Settlement Date: May 2, 2022

Contact Information

TCEQ Attorneys: David Keagle, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Samantha Duncan, Enforcement Division, (512) 239-2511

TCEQ Regional Contact: Richard Monreal, Waco Regional Office, (254) 751-0335

Respondent Contact: The Honorable Earnest Oden, Mayor, City of Leona, P.O. Box 10, Leona, Texas
75850

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	1-Jun-2020	Screening	2-Jun-2020	EPA Due	
	PCW	14-May-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Leona
Reg. Ent. Ref. No.	RN101404002
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	55510	No. of Violations	3
Docket No.	2020-0762-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samantha Duncan
		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	\$150
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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	72.0%	Adjustment	Subtotals 2, 3, & 7	\$108
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Notes: Enhancement for one NOV with the same/similar violations, one NOV with dissimilar violations, two agreed orders containing a denial of liability, and one agreed order without a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$5
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$13
 Estimated Cost of Compliance: \$186
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$253
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$253
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$253
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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.

PAYABLE PENALTY	\$253
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Screening Date 2-Jun-2020

Docket No. 2020-0762-PWS-E

PCW

Respondent City of Leona

Policy Revision 4 (April 2014)

Case ID No. 55510

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101404002

Media Public Water Supply

Enf. Coordinator Samantha Duncan

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>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 72%

>> Repeat Violator (Subtotal 3)

N/A

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 one NOV with the same/similar violations, one NOV with dissimilar violations, two agreed orders containing a denial of liability, and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 72%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 72%

Screening Date 2-Jun-2020

Docket No. 2020-0762-PWS-E

PCW

Respondent City of Leona

Policy Revision 4 (April 2014)

Case ID No. 55510

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101404002

Media Public Water Supply

Enf. Coordinator Samantha Duncan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.117(i)(6) and (j) and TCEQ Agreed Order Docket No. 2018-0016-PWS-E, Ordering Provision No. 2.a.iii

Violation Description Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2018 monitoring period.

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		

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 519

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

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$86

This violation Final Assessed Penalty (adjusted for limits) \$86

Economic Benefit Worksheet

Respondent City of Leona
Case ID No. 55510
Reg. Ent. Reference No. RN101404002
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)				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)	\$53	31-Dec-2018	3-Nov-2020	1.84	\$5	n/a	\$5

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare and mail the consumer notification for the January 1, 2018 through December 31, 2018 monitoring period to persons served at the locations which were sampled to the TCEQ (($\$0.50 \times$ six sampled locations + $\$50$) \times one monitoring period), calculated from the date the consumer notification was due to the 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

\$53

TOTAL

\$5

Screening Date 2-Jun-2020

Docket No. 2020-0762-PWS-E

PCW

Respondent City of Leona

Policy Revision 4 (April 2014)

Case ID No. 55510

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101404002

Media Public Water Supply

Enf. Coordinator Samantha Duncan

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c) and TCEQ Agreed Order Docket No. 2018-0016-PWS-E, Ordering Provision Nos. 2.a.iv and 2.b.ii

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 for each year, and failed to submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2018.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 337

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$5

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

Table with columns: Effort Type (Extraordinary, Ordinary, N/A), Count (x).

Notes The Respondent achieved compliance on July 1, 2020.

Violation Subtotal \$45

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$81

This violation Final Assessed Penalty (adjusted for limits) \$81

Economic Benefit Worksheet

Respondent City of Leona
Case ID No. 55510
Reg. Ent. Reference No. RN101404002
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)	\$108	1-Jul-2019	1-Jul-2020	1.00	\$5	n/a	\$5

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare and mail or directly deliver the most recent CCR to the customers of the Facility and to the TCEQ [(((\$0.50 x 115 connections) + \$50) x one year), calculated from the due date of the most recent CCR to the 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

\$108

TOTAL

\$5

Screening Date 2-Jun-2020
Respondent City of Leona
Case ID No. 55510

Docket No. 2020-0762-PWS-E

PCW

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

Reg. Ent. Reference No. RN101404002
Media Public Water Supply
Enf. Coordinator Samantha Duncan

Violation Number 3

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

Violation Description

Failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2015 through December 31, 2017 monitoring period.

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	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirements were not met.					

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 509 Number of violation days

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 NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$86

This violation Final Assessed Penalty (adjusted for limits) \$86

Economic Benefit Worksheet

Respondent City of Leona
Case ID No. 55510
Reg. Ent. Reference No. RN101404002
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	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)	\$25	10-Oct-2018	25-Nov-2020	2.13	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to ensure that the delinquent public notification (\$25 per notification x one notification) is provided to persons served by the Facility and a copy of the public notification, accompanied with a signed Certificate of Delivery, is submitted to the Executive Director, calculated from the due date of the public notification to the 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 \$25

TOTAL \$3

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN600738363, RN101404002, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600738363, City of Leona **Classification:** UNCLASSIFIED **Rating:** -----
Regulated Entity: RN101404002, CITY OF LEONA **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: approximately 350 feet from the intersection of Texas State Highway 75 and Farm-to-Market Road 977 in Leona, Leon County, Texas

TCEQ Region: REGION 09 - WACO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1450008 **WATER LICENSING LICENSE** 1450008

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: August 04, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 04, 2015 to August 04, 2020

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

Name: Marla Waters

Phone: (512) 239-4712

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: 03/28/2017 ADMINORDER 2016-0420-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
Description: Failed to use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 and Standard 61. Specifically, the water system did not provide ANSI/NSF Standard 60 verification for the calcium hypochlorite and sodium hypochlorite that are used for disinfection.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)
Description: Failed to completely cover the hypochlorination solution container top to prevent the entrance of dust, insects, and other contaminants. Specifically, the sodium hypochlorite container was not properly sealed at the feed pump suction line.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)
Description: Failed to provide facilities for determining the amount of disinfectant used daily and the amount of disinfectant remaining for use.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)
Description: Failed to ensure that livestock in pastures are not allowed within 50 feet of water supply wells. Specifically, the distance between the wellhead and the fence line measured approximately 41 feet and livestock were observed within

50 feet of the well.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failed to inspect the Facility's pressure tank annually.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)
Description: Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
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 0.2 milligrams per liter ("mg/L") of free chlorine throughout the distribution system at all times. Specifically, the free chlorine residual measured 0.04 mg/L in a sample taken during the investigation from a fire hydrant in the distribution system near 1167 Highway 997 West.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)

Description: Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days. Specifically, operator logs showed that the disinfectant residual was monitored more than seven days apart on 12 documented occasions spanning the period from December 18, 2014 through December 3, 2015.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)
30 TAC Chapter 290, SubChapter D 290.46(q)(2)

Description: Failed to issue a boil water notice using the prescribed notification format as specified in 30 Tex. Admin. Code § 290.47(c) and failed to keep the boil water notice in effect until water samples collected for microbiological analysis are found negative for coliform organisms. Specifically, the boil water notice issued February 10, 2016 did not have the wording that informs customers on how to boil their water to ensure the destruction of harmful bacteria and other microbes and did not contain.

2 Effective Date: 12/12/2018 ADMINORDER 2018-0016-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)

Description: LCR RD MR 3Y2017 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2015 to 12/31/2017 within the required timeline.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(i)(6)
30 TAC Chapter 290, SubChapter F 290.117(j)

Description: LCR LCN - The system failed to provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that were tested during the reduced monitoring period from 01/01/2014 to 12/31/2014.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2016 - The system failed to provide the Consumer Confidence Report (CCR) for 2016 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2015 - The system failed to provide the Consumer Confidence Report (CCR) for 2015 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2014 - The system failed to provide the Consumer Confidence Report (CCR) for 2014 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2013 - The system failed to provide the Consumer Confidence Report (CCR) for 2013 to its bill-paying

customers and/or the TCEQ by July 1st of the following year.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)

30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2012 - The system failed to provide the Consumer Confidence Report (CCR) for 2012 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

3 Effective Date: 01/28/2020 ADMINORDER 2019-0928-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

30 TAC Chapter 290, SubChapter F 290.121(b)

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 Facility will use to comply with the monitoring requirements

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: 10/09/2019 (1598189)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(2)
30 TAC Chapter 290, SubChapter F 290.122(a)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(a)(2)(C)

Description: Failure to issue a Boil Water Notice using a Tier 1 delivery method.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)

Description: Failure to provide the Certificate of Delivery within 10 days of issuing the Boil Water Notice.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)

Description: Failure to use applicable Boil Water Notice language and format.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)

Description: Failure to use applicable Boil Water Notice rescind language and format.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(6)(E)

Description: Failure to properly rescind a Boil Water Notice.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)

30 TAC Chapter 290, SubChapter H 290.274(a)

Description: Failure to provide an annual Consumer Confidence Report to customers.

2 Date: 10/11/2019 (1650371)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2018 - The system failed to provide the Consumer Confidence Report (CCR) for 2018 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

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
CITY OF LEONA;
RN101404002

§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2020-0762-PWS-E

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

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

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

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located approximately 350 feet from the intersection of Texas State Highway 75 and Farm-to-Market Road 977 in Leona, Leon County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 115 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During record review investigations conducted on May 5, 2020 and May 11 through May 22, 2020, an investigator documented that Respondent:
 - a. Failed to provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2018 monitoring period.
 - b. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 for each year, and failed to submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to customers and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2018.
 - c. Failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to collect lead and copper tap samples at the required five sample sites,

- have the samples analyzed, and report the results to the Executive Director for the January 1, 2015 through December 31, 2017 monitoring period.
3. The Executive Director recognizes that Respondent performed the following corrective measures at the Facility:
 - a. As of November 3, 2020, provided a consumer notification of lead tap water monitoring results to persons served at sites (taps) that were tested, and mailed a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification was distributed in a manner consistent with TCEQ requirements for the January 1, 2018 through December 31, 2018 monitoring period;
 - b. As of July 1, 2020, mailed or directly delivered one copy of the CCR to each bill paying customer, and submitted to the TCEQ a copy of the annual CCR and certification that the CCR was distributed to customers and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2018; and
 - c. As of November 25, 2020, provided public notification and submitted a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director for the January 1, 2015 through December 31, 2017 monitoring period.

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 provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and failed to mail a copy of the consumer notification of tap results to the Executive Director along with certification that the consumer notification has been distributed in a manner consistent with TCEQ requirements, in violation of 30 TEX. ADMIN. CODE § 290.117(i)(6) and (j) and TCEQ Agreed Order Docket No. 2018-0016-PWS-E, Ordering Provision No. 2.a.iii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 for each year, and failed to submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to customers 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) and TCEQ Agreed Order Docket No. 2018-0016-PWS- E, Ordering Provision Nos. 2.a.iv. and 2.b.ii.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide public notification and submit a copy of the public notification, accompanied with a signed Certificate of Delivery, to the Executive Director regarding the failure to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and report the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
5. 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.
6. An administrative penalty in the amount of two hundred fifty-three dollars (\$253.00) 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 two hundred fifty-three dollars (\$253.00) of the penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 6 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. 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 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.
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

Erin E. Chamallop

7/11/22

For the Executive Director

Date

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

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

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

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

Ernest J. Oden

Signature - The Honorable Ernest Oden,
Mayor City of Leona
P● Box 10
Leona, Texas 75850

5-2-22

Date

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