

**Executive Summary – Enforcement Matter – Case No. 60520
Magna Properties, Ltd.
RN105736474
Docket No. 2021-0395-PWS-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Exxxpress Mart 21, 20871 Highway 62 South, Orange, Orange County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 7, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,457

Amount Deferred for Expedited Settlement: \$4,091

Total Paid to General Revenue: \$476

Total Due to General Revenue: \$15,890

Payment Plan: 35 payments of \$454 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 15, 2020 through January 22, 2021

Date(s) of NOE(s): March 8, 2021

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Violation Information

1. Failed to obtain a sanitary control easement that covers the land within 150 feet of the Facility's well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].
2. Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") of free chlorine throughout the distribution system at all times. Specifically, a free chlorine residual concentration of 0.0 mg/L was collected at an outside hose bibb [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4) AND TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].
4. Failed to inspect the Facility's pressure tank annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].
5. Failed to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)].
6. Failed to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly ("BPA"). Specifically, there was no air gap or BPA on the carbonated drink dispenser and no air gap or BPA on the hose connections located at each 18-wheeler gas pump [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].
7. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)].
8. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, a record of the amount of each chemical used each week was not maintained on-site for review [30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(A)(i)(III)].
9. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].

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10. Failed to properly cover the hypochlorination solution container to prevent the entrance of dust, insects, and other contaminants. Specifically, the hypochlorination solution container was open to the atmosphere [30 TEX. ADMIN. CODE § 290.42(e)(5)].

11. Failed to provide an intruder-resistant fence or well house around each treatment plant, well unit, and related appurtenances that remains locked during periods of darkness and when the Facility is unattended. Specifically, the Facility was not locked, and the six-foot tall fence did not have three strands of barbed wire [30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.42(m)].

12. Failed to provide a suitable sampling tap on the discharge pipe of the Facility's well pump prior to any treatment [30 TEX. ADMIN. CODE § 290.41(c)(3)(M)].

13. Failed to provide flow-measuring devices for each well to measure production yields and provide for the accumulation of water production data. Specifically, the well did not have a flow measuring device installed [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].

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

15. Failed to provide a well casing vent for the well that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated, and located so as to minimize the drawing of contaminants into the well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].

16. Failed to securely install all water system electrical wiring in compliance with a local or national electrical code. Specifically, the wiring for the well and chlorinator were not in conduit [30 TEX. ADMIN. CODE § 290.46(v)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. By May 5, 2021, began maintaining a disinfectant residual concentration of at least 0.2 mg/L free chlorine throughout the distribution system;

b. By August 23, 2021:

i. Provided a proper air gap to the carbonated drink dispenser and the hose connections located at each 18-wheeler gas pump;

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- ii. Properly covered the hypochlorination solution container;
 - iii. Provide a suitable sampling tap on the discharge pipe of the Facility's well pump;
 - iv. Provided a flow measuring device for the Facility's well;
 - v. Secured the electrical wiring in compliance with a local or national electrical code for the Facility's well and chlorinator;
 - vi. Installed three strands of barbed wire on the six-foot fence, rendering it intruder-resistant, and ensured that the Facility remained locked when the Facility is unattended;
 - vii. Provided a legible sign at each production, treatment, and storage facility which contains the name of the Facility and an emergency phone number where a responsible official can be contacted;
 - viii. Provided a well casing vent for the Facility's well; and
 - ix. Obtained a sanitary control easement that covers the land within 150 feet of the Facility's well.
- c. By August 25, 2021, provided an accurate and up-to-date map of the distribution system;
 - d. By August 26, 2021, conducted an inspection of the Facility's pressure tank; and
 - e. By August 30, 2021, provided a thorough and up-to-date plant operation manual.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Compile and maintain properly completed water works operation and maintenance records, including but not limited to, a record of the amount of each chemical used each week; and
 - ii. Monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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- c. Within 60 days, develop and begin maintaining a chemical and microbiological monitoring plan.
- d. Within 75 days, submit written certification to demonstrate compliance with c.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, Enforcement Team 8, MC R-14, (361) 825-3421; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Elias Sarkis, General Partner, Magna Properties, Ltd., P.O. Box 20555, Beaumont, Texas 77720

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	15-Mar-2021			
	PCW	16-Mar-2021	Screening	16-Mar-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Magna Properties, Ltd.
Reg. Ent. Ref. No.	RN105736474
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60520	No. of Violations	16
Docket No.	2021-0395-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$18,250
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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	20.0% Adjustment	Subtotals 2, 3, & 7	\$3,650
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Notes	Enhancement for one agreed order containing a denial of liability.
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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	-\$1,495
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$194	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,132	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,405
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.3%	Adjustment	\$52
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation Nos. 4 and 7.
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Final Penalty Amount	\$20,457
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,457
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DEFERRAL	20.0%	Reduction	Adjustment	-\$4,091
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$16,366
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Screening Date 16-Mar-2021

Docket No. 2021-0395-PWS-E

PCW

Respondent Magna Properties, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 60520

PCW Revision September 1, 2019

Reg. Ent. Reference No. RN105736474

Media Public Water Supply

Enf. Coordinator Epifanio Villarreal

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

>> 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 one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 16-Mar-2021 **Docket No.** 2021-0395-PWS-E **PCW**
Respondent Magna Properties, Ltd. *Policy Revision 4 (April 2014)*
Case ID No. 60520 *PCW Revision September 1, 2019*
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)
Violation Description Failed to obtain a sanitary control easement that covers the land within 150 feet of the Facility's well.
Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 3.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes Failure to have a sanitary control easement could expose persons served by the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,850

\$150

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$15

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

Notes The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$135

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1 **Violation Final Penalty Total** \$165

This violation Final Assessed Penalty (adjusted for limits) \$165

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
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)	\$25	15-Dec-2020	23-Aug-2021	0.69	\$1	n/a	\$1

Notes for DELAYED costs The delayed cost includes the estimated amount to obtain and record the sanitary control easement for the Facility's well (\$25 per well x one well), or to obtain an exception to the requirement, calculated from the date of the investigation 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 \$1

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 2

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

Violation Description

Failed to maintain a minimum disinfectant residual of 0.2 milligram per liter ("mg/L") of free chlorine throughout the distribution system at all times. Specifically, a free chlorine residual concentration of 0.0 mg/L was collected at an outside hose bibb.

Base Penalty \$5,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to maintain proper levels of disinfection could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 91 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Four monthly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$300

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

Notes The Respondent achieved compliance on May 5, 2021.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$3,308

This violation Final Assessed Penalty (adjusted for limits) \$3,308

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 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)	\$100	15-Dec-2020	5-May-2021	0.39	\$2	n/a	\$2

Notes for DELAYED costs
 The delayed cost includes the estimated amount to determine the cause of non-compliance, make any necessary repairs or adjustments to the Facility, and maintain a disinfectant residual of at least 0.2 mg/L free chlorine throughout the distribution system, calculated from the investigation date 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
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Approx. Cost of Compliance \$100

TOTAL \$2

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 3

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

Violation Description Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

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

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$25

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

Notes The Respondent achieved compliance on August 30, 2021.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$276

This violation Final Assessed Penalty (adjusted for limits) \$276

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 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)	\$180	15-Dec-2020	30-Aug-2021	0.71	\$6	n/a	\$6

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and begin maintaining a thorough and up-to-date plant operations manual, calculated from the date of the investigation 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

\$180

TOTAL

\$6

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

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PCW

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

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$41	15-Dec-2020	26-Aug-2021	0.70	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to conduct the annual pressure tank inspection (\$41 per tank x one tank), calculated from the date of the investigation 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	\$41	15-Dec-2020	16-Mar-2021	0.25	\$1	\$41	\$42
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct the annual pressure tank inspection (\$41 per tank x one tank), calculated from the date of the investigation to the screening date.

Approx. Cost of Compliance \$82

TOTAL \$43

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$180	15-Dec-2020	25-Aug-2021	0.69	\$6	n/a	\$6

Notes for DELAYED costs
 The delayed cost includes the estimated amount to begin maintaining and make available an up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, calculated from the date of the investigation 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
 (This area is currently blank)

Approx. Cost of Compliance	\$180	TOTAL	\$6
----------------------------	-------	--------------	-----

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.44(h)(1)(A)

Violation Description

Failed to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly ("BPA"), as identified in 30 Tex. Admin. Code § 290.47(f). Specifically, there was no air gap or BPA on the carbonated drink dispenser and no air gap or BPA on the hose connections located at each 18-wheeler gas pump.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failure to have additional protections may allow backflow and siphonage to occur resulting in persons served by the Facility being exposed to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 91 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Four monthly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$300

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes

The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$3,308

This violation Final Assessed Penalty (adjusted for limits) \$3,308

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,000	15-Dec-2020	23-Aug-2021	0.69	\$2	\$46	\$48
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 includes the estimated amount to ensure additional protection is provided in the form of an air gap or by installing a BPA on the carbonated drink dispenser and hose connections located at each 18-wheeler gas pump, calculated from the date of the investigation 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 \$1,000

TOTAL \$48

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(4)(A)

Violation Description Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to monitor the disinfectant residual at representative locations throughout the distribution system could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 91 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Four monthly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$3,609

This violation Final Assessed Penalty (adjusted for limits) \$3,609

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 7

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$10	15-Dec-2020	1-Apr-2022	1.29	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to monitor the disinfectant residual at least once every seven days (\$10 per week), calculated from the investigation date 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	\$10	15-Dec-2020	16-Mar-2021	0.25	\$0	\$10	\$10
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to monitor the disinfectant residual at least once every seven days (\$10 per week), calculated from the investigation date to the date of screening.

Approx. Cost of Compliance \$20

TOTAL \$11

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 8

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

Violation Description Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, a record of the amount of each chemical used each week was not maintained on-site for review.

Base Penalty \$5,000

>> 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	1.0%
Less than 30% of the rule requirements were not met.					

Adjustment \$4,950

\$50

Violation Events

Number of Violation Events 1 91 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$60

This violation Final Assessed Penalty (adjusted for limits) \$60

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	15-Dec-2020	1-Apr-2022	1.29	\$3	n/a	\$3
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 maintain water system operation and maintenance records and make them immediately available for inspection upon request by the Executive Director, calculated from the date of the investigation 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
 (This area is currently blank)

Approx. Cost of Compliance \$45

TOTAL \$3

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 9

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

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

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

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

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$301

This violation Final Assessed Penalty (adjusted for limits) \$301

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 9

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$180	15-Dec-2020	1-May-2022	1.38	\$12	n/a	\$12

Notes for DELAYED costs The delayed cost includes the estimated amount to develop and begin maintaining an up-to-date chemical and microbiological monitoring plan, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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 \$180

TOTAL \$12

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 290.42(e)(5)

Violation Description Failed to properly cover the hypochlorination solution container to prevent the entrance of dust, insects, and other contaminants. Specifically, the hypochlorination solution container was open to the atmosphere.

Base Penalty \$5,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			x	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%
Failure to properly cover the hypochlorination solution container could expose persons served by the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.					

Adjustment \$4,850

\$150

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$15

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

Notes The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$135

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$165

This violation Final Assessed Penalty (adjusted for limits) \$165

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 10

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$20	15-Dec-2020	23-Aug-2021	0.69	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to properly cover the hypochlorination solution container, calculated from the date of the investigation 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 \$20

TOTAL \$1

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code §§ 290.41(c)(3)(O) and 290.42(m)

Violation Description

Failed to provide an intruder-resistant fence or well house around each treatment plant, well unit, and related appurtenances that remains locked during periods of darkness and when the Facility is unattended. Specifically, the Facility was not locked, and the 6-foot tall fence did not have three strands of barbed wire.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide an intruder-resistant fence or well house around each treatment plant, well unit, and related appurtenances could result in contamination of the facilities exposing persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2

91 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two quarterly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$50

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

Extraordinary		
Ordinary		x
N/A		

Notes

The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$551

This violation Final Assessed Penalty (adjusted for limits) \$551

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 11

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	15-Dec-2020	23-Aug-2021	0.69	\$1	\$23	\$24
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 keep the Facility locked and to install three strands of barbed wire on the 6-foot fence rendering it intruder-resistant, calculated from the date of the investigation 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 \$500

TOTAL \$24

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 12

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(M)

Violation Description Failed to provide a suitable sampling tap on the discharge pipe of the Facility's well pump prior to any treatment.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failure to provide a sampling tap on the well discharge line may allow undetected contaminated raw water that could expose persons served by the Facility to an insignificant amount of contaminants to enter the distribution system which would not exceed levels protective of human health.

Adjustment \$4,850

\$150

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$15

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

Notes

The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$135

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$165

This violation Final Assessed Penalty (adjusted for limits) \$165

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 12

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	15-Dec-2020	23-Aug-2021	0.69	\$0	\$2	\$2
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 install a suitable sampling tap prior to treatment on the discharge pipe of the Facility's well pump, calculated from the date of investigation 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 \$50

TOTAL \$2

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 13

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description Failed to provide flow-measuring devices for each well to measure production yields and provide for the accumulation of water production data. Specifically, the well did not have a flow measuring device installed.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to provide a flow-measuring device for the well could result in inaccurate water production data which would affect treatment practices, thereby exposing persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 91 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Four monthly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$300

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

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$3,308

This violation Final Assessed Penalty (adjusted for limits) \$3,308

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 13

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$300	15-Dec-2020	23-Aug-2021	0.69	\$1	\$14	\$15
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 includes the estimated amount to provide a flow-measuring device for the well to measure production yields and provide for the accumulation of water production data, calculated from the date of the investigation 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 \$300

TOTAL \$15

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 14

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

Violation Description Failed to post a legible sign at the Facility's production, treatment, and storage facilities that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

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

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1 91 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$25

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

Notes The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$276

This violation Final Assessed Penalty (adjusted for limits) \$276

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 14

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	15-Dec-2020	23-Aug-2021	0.69	\$0	\$5	\$5
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide an ownership sign at the water treatment plant, calculated from the date of the investigation 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

\$100

TOTAL

\$5

Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 15

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(K)

Violation Description Failed to provide a well casing vent for the well that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated, and located so as to minimize the drawing of contaminants into the well.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to provide a well casing vent could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2 91 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two quarterly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$50

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$551

This violation Final Assessed Penalty (adjusted for limits) \$551

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Violation No. Public Water Supply
 15

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$150	15-Dec-2020	23-Aug-2021	0.69	\$0	\$7	\$7
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 includes the estimated amount to provide a well casing vent for the well, calculated from the date of the investigation 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	\$150	TOTAL	\$7
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Screening Date 16-Mar-2021
Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2021-0395-PWS-E

PCW

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

Violation Number 16

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

Violation Description Failed to securely install all water system electrical wiring in compliance with a local or national electrical code. Specifically, the wiring for the well and chlorinator were not in conduit.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to securely install all water system wiring in compliance with a local or national electrical code could expose employees or persons served by the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 91 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Four monthly events are recommended, calculated from the date of the investigation, December 15, 2020, to the date of screening, March 16, 2021.

Good Faith Efforts to Comply

10.0%

Reduction \$300

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance on August 23, 2021.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$3,308

This violation Final Assessed Penalty (adjusted for limits) \$3,308

Economic Benefit Worksheet

Respondent Magna Properties, Ltd.
Case ID No. 60520
Reg. Ent. Reference No. RN105736474
Media Public Water Supply
Violation No. 16

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	15-Dec-2020	23-Aug-2021	0.69	\$0	\$9	\$9
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 securely install all water system electrical wiring in compliance with a local or national electrical code, calculated from the date of the investigation 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 \$200

TOTAL \$9

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 CN605636422, RN105736474, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605636422, Magna Properties, Ltd. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN105736474, EXXPRESS MART 21 **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 20871 HIGHWAY 62 SOUTH, ORANGE, ORANGE COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION **PUBLIC WATER SYSTEM/SUPPLY REGISTRATION**
REGISTRATION 79785 1810199

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: June 18, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 18, 2016 to June 18, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: EPI VILLARREAL **Phone:** (361) 825-3421

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: 03/16/2021 ADMINORDER 2020-0787-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)
30 TAC Chapter 290, SubChapter D 290.39(h)(1)
5A THSC Chapter 341, SubChapter A 341.035(a)
Description: Failed to submit plans and specifications to the Executive Director for review and approval prior to the construction of a new public water supply. Specifically, the Respondent was operating a business which meets the definition of a transient, noncommunity public water supply without first obtaining approval.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 2 January 31, 2020 (1625309)

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.

N/A

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
MAGNA PROPERTIES, LTD.
RN105736474**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0395-PWS-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Magna Properties, Ltd. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 20871 Highway 62 South in Orange, Orange County, Texas (the "Facility"). The Facility provides water for human consumption, has one service connection, 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$20,457 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$476 of the penalty and \$4,091 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$15,890 of the undeferred penalty shall be paid in 35 monthly payments of \$454 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full.

If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. By May 5, 2021, began maintaining a disinfectant residual concentration of at least 0.2 milligram per liter ("mg/L") free chlorine throughout the distribution system;
 - b. By August 23, 2021:
 - i. Provided a proper air gap to the carbonated drink dispenser and the hose connections located at each 18-wheeler gas pump;
 - ii. Properly covered the hypochlorination solution container;
 - iii. Provide a suitable sampling tap on the discharge pipe of the Facility's well pump;
 - iv. Provided a flow measuring device for the Facility's well;
 - v. Secured the electrical wiring in compliance with a local or national electrical code for the Facility's well and chlorinator;

- vi. Installed three strands of barbed wire on the six-foot fence, rendering it intruder-resistant, and ensured that the Facility remained locked when the Facility is unattended;
 - vii. Provided a legible sign at each production, treatment, and storage facility which contains the name of the Facility and an emergency phone number where a responsible official can be contacted;
 - viii. Provided a well casing vent for the Facility's well; and
 - ix. Obtained a sanitary control easement that covers the land within 150 feet of the Facility's well.
- c. By August 25, 2021, provided an accurate and up-to-date map of the distribution system;
 - d. By August 26, 2021, conducted an inspection of the Facility's pressure tank; and
 - e. By August 30, 2021, provided a thorough and up-to-date plant operation manual.

II. ALLEGATIONS

During an investigation conducted on December 15, 2020 through January 22, 2021, an investigator documented that the Respondent:

1. Failed to obtain a sanitary control easement that covers the land within 150 feet of the Facility's well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
2. Failed to maintain a minimum disinfectant residual of 0.2 mg/L of free chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4) AND TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, a free chlorine residual concentration of 0.0 mg/L was collected at an outside hose bibb.
3. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
4. Failed to inspect the Facility's pressure tank annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).
5. Failed to make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).
6. Failed to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or a backflow prevention assembly ("BPA"), as identified in 30 TEX. ADMIN. CODE § 290.47(f), in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A). Specifically, there was no air gap

- or BPA on the carbonated drink dispenser and no air gap or BPA on the hose connections located at each 18-wheeler gas pump.
7. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A).
 8. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(A)(i)(III). Specifically, a record of the amount of each chemical used each week was not maintained on-site for review.
 9. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
 10. Failed to properly cover the hypochlorination solution container to prevent the entrance of dust, insects, and other contaminants, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(5). Specifically, the hypochlorination solution container was open to the atmosphere.
 11. Failed to provide an intruder-resistant fence or well house around each treatment plant, well unit, and related appurtenances that remains locked during periods of darkness and when the Facility is unattended, in violation of 30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.42(m). Specifically, the Facility was not locked, and the six-foot tall fence did not have three strands of barbed wire.
 12. Failed to provide a suitable sampling tap on the discharge pipe of the Facility's well pump prior to any treatment, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(M).
 13. Failed to provide flow-measuring devices for each well to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N). Specifically, the well did not have a flow measuring device installed.
 14. Failed to post a legible sign at the Facility's production, treatment, and storage facilities that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t).
 15. Failed to provide a well casing vent for the well that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated, and located so as to minimize the drawing of contaminants into the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K).
 16. Failed to securely install all water system electrical wiring in compliance with a local or national electrical code, in violation of 30 TEX. ADMIN. CODE § 290.46(v). Specifically, the wiring for the well and chlorinator were not in conduit.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Magna Properties, Ltd., Docket No. 2021-0395-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Compile and maintain properly completed water works operation and maintenance records, including but not limited to, a record of the amount of each chemical used each week, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - ii. Monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.
 - c. Within 60 days after the effective date of this Order, develop and begin maintaining a chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121.
 - d. Within 75 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General (OAG) to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. 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.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

6/8/2022

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, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

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

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

E. SARKIS

Signature

12-9-2021

Date

ELIAS SARKIS

Name (Printed or typed)
Authorized Representative of
Magna Properties, Ltd.

PRESIDENT

Title

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