

Executive Summary – Enforcement Matter – Case No. 60685
James E. Danning dba North Whispering Meadows Water and Christel L.
Danning dba North Whispering Meadows Water
RN101244879
Docket No. 2021-0561-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

North Whispering Meadows Water, 8600 Roaring Creek Road near Joshua, Johnson 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: February 11, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,375

Total Paid to General Revenue: \$180

Total Due to General Revenue: \$6,195

Payment Plan: 35 monthly payments of \$177 each

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 5, 2021 through April 16, 2021 and April 28, 2021

Date(s) of NOE(s): April 16, 2021

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Violation Information

1. Failed to provide the results of nitrate and volatile organic chemical ("VOC") contaminants sampling to the Executive Director ("ED") [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e)].
2. Failed to provide the results of synthetic organic chemical Group 5 ("SOC5") contaminants sampling to the ED [30 TEX. ADMIN. CODE § 290.107(e)].
3. Failed to submit a Disinfection Level Quarterly Operating Report ("DLQOR") to the ED by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
4. 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 of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].
5. 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 ED 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)].
6. Failed to pay annual Public Health Service fees and/or any associated late fees [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].
7. Failed to pay regulatory assessment fees for the TCEQ Public Utility Account concerning Certificate of Convenience and Necessity No. 12621 [30 TEX. ADMIN. CODE § 291.76 and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondents implemented the following corrective measures:

- a. On April 17, 2021, provided a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and mailed a copy of the consumer notification of tap results to the ED along with certification that the consumer

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notification has been distribution in a manner consistent with TCEQ requirements for the January 1, 2019 through December 31, 2019 monitoring period;

b. On April 29, 2021, provided the results of nitrate and VOC contaminants sampling to the ED for the January 1, 2020 through December 31, 2020 monitoring period, and provided the results of SOC5 contaminants sampling to the ED for the January 1, 2018 through December 31, 2020 monitoring period; and

c. On June 24, 2021, submitted a DLQOR to the ED by the tenth day of the month following the end of each quarter for the third quarter of 2019 through the fourth quarter of 2020.

Technical Requirements:

The Order will require the Respondents to:

a. Within 30 days:

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

ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91260088; and

iii. Submit payment for all outstanding regulatory assessment fees for the TCEQ Public Utility Account concerning Certificate of Convenience and Necessity No. 12621 for calendar year 2020.

b. Within 45 days:

i. Submit written certification to demonstrate compliance with a.i.; and

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

c. Within 60 days, submit written certification to demonstrate compliance with b.ii.

Contact Information

Executive Summary – Enforcement Matter – Case No. 60685
James E. Danning dba North Whispering Meadows Water and Christel L.
Danning dba North Whispering Meadows Water
RN101244879
Docket No. 2021-0561-PWS-E

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Samantha Duncan, Enforcement Division,
Enforcement Team 2, MC 219, (512) 239-2511; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: James E. Danning, Owner, North Whispering Meadows Water, 8816
Roaring Creek Road, Joshua, Texas 76058

Christel L. Danning, Owner, North Whispering Meadows Water, 8816 Roaring Creek
Road, Joshua, Texas 76058

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	26-Apr-2021			
	PCW	29-Apr-2021	Screening	28-Apr-2021	EPA Due 30-Jun-2021

RESPONDENT/FACILITY INFORMATION	
Respondent	James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Reg. Ent. Ref. No.	RN101244879
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60685	No. of Violations	7
Docket No.	2021-0561-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Samantha Duncan
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Adjustment	Subtotals 2, 3, & 7	\$1,375
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Notes: Enhancement for five NOV's with the same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$34
 Estimated Cost of Compliance: \$669
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,375
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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	\$6,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,375
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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	\$6,375
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Screening Date 28-Apr-2021

Docket No. 2021-0561-PWS-E

PCW

Respondent James E. Danning dba North Whispering Meadows Water and Christel

Case ID No. 60685

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101244879

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>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 28-Apr-2021

Docket No. 2021-0561-PWS-E

PCW

Respondent James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water

Policy Revision 5 (January 28, 2021)

Case ID No. 60685

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101244879

Media Public Water Supply

Enf. Coordinator Samantha Duncan

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.106(e) and 290.107(e)

Violation Description Failed to provide the results of nitrate and volatile organic chemical ("VOC") contaminants sampling to the Executive Director for the January 1, 2020 through December 31, 2020 monitoring period.

Base Penalty \$5,000

>> 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 (10.0%).

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

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 2 Number of violation days 117

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

Violation Base Penalty \$1,000

Two single events are recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$100

Table with columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer, and rows: Extraordinary, Ordinary (marked with X), N/A.

Notes The Respondents achieved compliance on April 29, 2021.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Case ID No. 60685
Reg. Ent. Reference No. RN101244879
Media Violation No. Public Water Supply

Percent Interest 5.0
Years of Depreciation 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	\$5
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)	\$66	1-Jan-2021	29-Apr-2021	0.32	\$1	n/a	\$1

Notes for DELAYED costs

The Other (as needed) cost includes the estimated amount to pay any outstanding lab fees (\$8.74 for nitrate + \$56.77 for VOC x one sample) so that the lab will release all drinking water chemical analysis results, calculated from the date the sampling results were 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 \$66

TOTAL \$6

Screening Date	28-Apr-2021	Docket No.	2021-0561-PWS-E	PCW
Respondent	James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60685			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101244879			
Media	Public Water Supply			
Enf. Coordinator	Samantha Duncan			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 290.107(e)			
Violation Description	Failed to provide the results of synthetic organic chemical Group 5 ("SOC5") contaminants sampling to the Executive Director for the January 1, 2018 through December 31, 2020 monitoring period.			
		Base Penalty	\$5,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 10.0%
Matrix Notes	100% of the rule requirements were not met.				
			Adjustment	\$4,500	

\$500

Violation Events

Number of Violation Events	1	1095	Number of violation days	
	daily			Violation Base Penalty \$500
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	One single event is recommended.			

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 Respondents achieved compliance on April 29, 2021.		

Violation Subtotal \$450

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

Estimated EB Amount \$8 Violation Final Penalty Total \$575

This violation Final Assessed Penalty (adjusted for limits) \$575

Economic Benefit Worksheet

Respondent
Case ID No.
Reg. Ent. Reference No.
Media
Violation No.

James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
 60685
 RN101244879
 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	\$5
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)	\$212	1-Jan-2021	29-Apr-2021	0.32	\$3	n/a	\$3

Notes for DELAYED costs

The Other (as needed) cost includes the estimated amount to pay any outstanding lab fees (\$211.57 for SOC5 contaminants x one sample) so that the lab will release all drinking water chemical analysis results, calculated from the date the sampling results were 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

\$212

TOTAL

\$8

Screening Date 28-Apr-2021 **Docket No.** 2021-0561-PWS-E **PCW**
Respondent James E. Danning dba North Whispering Meadows Water and Christel L.
Case ID No. 60685 *Policy Revision 5 (January 28, 2021)*
Reg. Ent. Reference No. RN101244879 *PCW Revision February 11, 2021*
Media Public Water Supply
Enf. Coordinator Samantha Duncan

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description Failed to submit a Disinfection Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the third quarter of 2019 through the fourth quarter of 2020.

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			10.0%

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

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 6 566 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Six single events are recommended.

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 Respondents achieved compliance on June 24, 2021.

Violation Subtotal \$2,700

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

Estimated EB Amount \$12 **Violation Final Penalty Total** \$3,450

This violation Final Assessed Penalty (adjusted for limits) \$3,450

Economic Benefit Worksheet

Respondent James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Case ID No. 60685
Reg. Ent. Reference No. RN101244879
Media Violation No. Public Water Supply

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	\$45	5-Apr-2021	24-Jun-2021	0.22	\$0	n/a	\$0
Training/Sampling	\$100	5-Apr-2021	24-Jun-2021	0.22	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$132	10-Oct-2019	24-Jun-2021	1.71	\$11	n/a	\$11

Notes for DELAYED costs

The record keeping and training/sampling delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all DLQORs are submitted to the TCEQ in a timely manner, calculated from the record review date to the date of compliance.

The other (as needed) delayed cost includes the estimated amount to prepare and submit a DLQOR (\$22 per DLQOR x six reports), calculated from the due date of the report from the first monitoring period 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 \$277

TOTAL \$12

Screening Date	28-Apr-2021	Docket No.	2021-0561-PWS-E	PCW
Respondent	James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	60685			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101244879			
Media	Public Water Supply			
Enf. Coordinator	Samantha Duncan			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)			
Violation Description	Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 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 of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2019.			
		Base Penalty	\$5,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 10.0%

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

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events: 1 301 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$5	Violation Final Penalty Total \$625
This violation Final Assessed Penalty (adjusted for limits) \$625	

Economic Benefit Worksheet

Respondent James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Case ID No. 60685
Reg. Ent. Reference No. RN101244879
Media Violation No. Public Water Supply 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)	\$61	1-Jul-2020	5-Feb-2022	1.60	\$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 22 connections) + \$50) x one year), calculated from the due date of the most recent CCR 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 \$61

TOTAL \$5

Screening Date 28-Apr-2021 **Docket No.** 2021-0561-PWS-E **PCW**
Respondent James E. Danning dba North Whispering Meadows Water and Christel L.
Case ID No. 60685 *Policy Revision 5 (January 28, 2021)*
Reg. Ent. Reference No. RN101244879 *PCW Revision February 11, 2021*
Media Public Water Supply
Enf. Coordinator Samantha Duncan

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 290.117(i)(6) and (j)

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, 2019 through December 31, 2019 monitoring period.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 10.0%

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

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1 23 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

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 Respondents achieved compliance on April 17, 2021.

Violation Subtotal \$450

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$3 **Violation Final Penalty Total** \$575

This violation Final Assessed Penalty (adjusted for limits) \$575

Economic Benefit Worksheet

Respondent James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Case ID No. 60685
Reg. Ent. Reference No. RN101244879
Media Violation No. Public Water Supply

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)	\$53	31-Dec-2019	17-Apr-2021	1.30	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare and mail the consumer notification for the January 1, 2019 through December 31, 2019 monitoring period to persons served at the locations which were sampled and to the TCEQ ((\$0.50 x five sampled locations + \$50) x one monitoring period), calculated from the date of 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 \$3

Screening Date 28-Apr-2021 **Docket No.** 2021-0561-PWS-E **PCW**
 Respondent James E. Danning dba North Whispering Meadows Water and Christel L.
 Case ID No. 60685 *Policy Revision 5 (January 28, 2021)*
 Reg. Ent. Reference No. RN101244879 *PCW Revision February 11, 2021*
 Media Public Water Supply
 Enf. Coordinator Samantha Duncan

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702
Violation Description Failed to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 91260088 for Fiscal Year 2021.

Base Penalty \$5,000

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

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent 0.0%
Matrix Notes					

Adjustment \$5,000

\$0

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"/>

Violation Base Penalty \$0

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

Good Faith Efforts to Comply **0.0%** Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	
Notes	The Respondents do not meet the good faith criteria for this violation.	

Violation Subtotal \$0

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Case ID No. 60685
Reg. Ent. Reference No. RN101244879
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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

N/A

Approx. Cost of Compliance

TOTAL

Screening Date 28-Apr-2021 **Docket No.** 2021-0561-PWS-E **PCW**
 James E. Danning dba North Whispering Meadows Water and Christel L.
Respondent Danning dba North Whispering Meadows Water *Policy Revision 5 (January 28, 2021)*
Case ID No. 60685 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101244879
Media Public Water Supply
Enf. Coordinator Samantha Duncan

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

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"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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 James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water
Case ID No. 60685
Reg. Ent. Reference No. RN101244879
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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

N/A

Approx. Cost of Compliance \$0

TOTAL \$0

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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 CN603680729, RN101244879, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN603680729, Danning, James E. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101244879, NORTH WHISPERING MEADOWS WATER **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 8600 ROARING CREEK ROAD NEAR JOSHUA, JOHNSON COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1260088 **WATER LICENSING LICENSE** 1260088

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

Date Compliance History Report Prepared: August 18, 2021

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: Samantha Duncan

Phone: (817) 588-5805

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	March 04, 2019	(1550523)
Item 2	April 02, 2019	(1550858)

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: 09/30/2020 (1709228)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 2Q2020 - The system failed to monitor and/or report distribution
 disinfectant residuals to the TCEQ for the 2nd quarter of 2020 within the required
 timeline.

- 2 Date: 10/16/2020 (1709228)
 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 2019 - The system failed to provide the Consumer Confidence Report (CCR) for 2019 to its bill-paying customers and/or the TCEQ by July 1st of the following year.
- 3 Date: 12/17/2020 (1709228)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 3Q2020 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 3rd quarter of 2020 within the required timeline.
- 4 Date: 03/31/2021 (1709228)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(c)(9)
 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: NO3 MR YR2020 - The system failed to monitor and/or report nitrate levels to the TCEQ for the annual monitoring period from 01/01/2020 to 12/31/2020 within the required timeline.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 30 TAC Chapter 290, SubChapter F 290.107(c)(1)
 30 TAC Chapter 290, SubChapter F 290.107(e)
 Description: SOC5 MR 3Y2020 - The system failed to monitor and/or report synthetic organic contaminants (Group SOC5) levels to the TCEQ for the triennial monitoring period from 01/01/2018 to 12/31/2020 within the required timeline
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 30 TAC Chapter 290, SubChapter F 290.107(c)(2)
 30 TAC Chapter 290, SubChapter F 290.107(e)
 Description: VOC MR YR2020 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2020 to 12/31/2020 within the required timeline.
- 5 Date: 04/01/2021 (1709228)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 4Q2020 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2020 within the required timeline.

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

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Compliance History Report

Compliance History Report for CN603680737, RN101244879, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN603680737, Danning, Christel L. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101244879, NORTH WHISPERING MEADOWS WATER **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 8600 ROARING CREEK ROAD NEAR JOSHUA, JOHNSON COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1260088 **WATER LICENSING LICENSE** 1260088

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

Date Compliance History Report Prepared: August 18, 2021

Agency Decision Requiring Compliance History: Enforcement

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

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Samantha Duncan **Phone:** (817) 588-5805

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	March 04, 2019	(1550523)
Item 2	April 02, 2019	(1550858)

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: | 09/30/2020 | (1709228) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3) | | | |
| | Description: | DLQOR MR 2Q2020 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 2nd quarter of 2020 within the required timeline. | | | |

- 2 Date: 10/16/2020 (1709228)
 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 2019 - The system failed to provide the Consumer Confidence Report (CCR) for 2019 to its bill-paying customers and/or the TCEQ by July 1st of the following year.
- 3 Date: 12/17/2020 (1709228)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 3Q2020 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 3rd quarter of 2020 within the required timeline.
- 4 Date: 03/31/2021 (1709228)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(c)(9)
 30 TAC Chapter 290, SubChapter F 290.106(e)
 Description: NO3 MR YR2020 - The system failed to monitor and/or report nitrate levels to the TCEQ for the annual monitoring period from 01/01/2020 to 12/31/2020 within the required timeline.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 30 TAC Chapter 290, SubChapter F 290.107(c)(1)
 30 TAC Chapter 290, SubChapter F 290.107(e)
 Description: SOC5 MR 3Y2020 - The system failed to monitor and/or report synthetic organic contaminants (Group SOC5) levels to the TCEQ for the triennial monitoring period from 01/01/2018 to 12/31/2020 within the required timeline
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
 30 TAC Chapter 290, SubChapter F 290.107(c)(2)
 30 TAC Chapter 290, SubChapter F 290.107(e)
 Description: VOC MR YR2020 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2020 to 12/31/2020 within the required timeline.
- 5 Date: 04/01/2021 (1709228)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: DLQOR MR 4Q2020 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2020 within the required timeline.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
JAMES E. DANNING DBA NORTH	§	
WHISPERING MEADOWS	§	TEXAS COMMISSION ON
WATER AND CHRISTEL L.	§	
DANNING DBA NORTH	§	
WHISPERING MEADOWS	§	
WATER	§	
RN101244879	§	ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2021-0561-PWS-E**

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water (the "Respondents") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this Order to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondents agree to waive all notice and procedural rights.

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 the Respondents.

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

I. FINDINGS OF FACT

1. The Respondents own and operate a public water supply located at 8600 Roaring Creek Road near Joshua, Johnson County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 22 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 a record review conducted on April 5, 2021 through April 16, 2021, an investigator documented that:

- a. The Respondents did not provide the results of nitrate and volatile organic chemical ("VOC") contaminants sampling to the Executive Director for the January 1, 2020 through December 31, 2020 monitoring period.
 - b. The Respondents did not provide the results of synthetic organic chemical Group 5 ("SOC5") contaminants sampling to the Executive Director for the January 1, 2018 through December 31, 2020 monitoring period.
 - c. The Respondents did not submit a Disinfection Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the third quarter of 2019 through the fourth quarter of 2020.
 - d. The Respondents did not mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 for each year, and did not 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 of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2019.
 - e. The Respondents did not provide a consumer notification of lead tap water monitoring results to persons served at the sites (taps) that were tested, and did not 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, 2019 through December 31, 2019 monitoring period.
3. During a record review conducted on April 28, 2021, an investigator documented that:
- a. The Respondents did not pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 91260088 for Fiscal Year 2021.
 - b. The Respondents did not pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity No. 12621 for calendar year 2020.
4. The Executive Director recognizes that:
- a. On April 17, 2021, the Respondents provided a consumer notification of lead tap water monitoring results to persons served at the 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 has been distributed in a manner consistent with TCEQ requirements for the January 1, 2019 through December 31, 2019 monitoring period.

- b. On April 29, 2021, the Respondents provided the results of nitrate and VOC contaminants sampling to the Executive Director for the January 1, 2020 through December 31, 2020 monitoring period, and provided the results of SOC5 contaminants sampling to the Executive Director for the January 1, 2018 through December 31, 2020 monitoring period.
- c. On June 24, 2021, the Respondents submitted a DLQOR to the Executive Director by the tenth day of the month following the end of each quarter for the third quarter of 2019 through the fourth quarter of 2020.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondents failed to provide the results of nitrate and VOC contaminants sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e).
3. As evidenced by Finding of Fact No. 2.b, the Respondents failed to provide the results of SOC5 contaminants sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.107(e).
4. As evidenced by Finding of Fact No. 2.c, the Respondents failed to submit a DLQOR to the Executive Director by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
5. As evidenced by Finding of Fact No. 2.d, the Respondents 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 the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
6. As evidenced by Finding of Fact No. 2.e, the Respondents 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).
7. As evidenced by Finding of Fact No. 3.a, the Respondents failed to pay annual Public Health Service fees and/or any associated late fees, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.

8. As evidenced by Finding of Fact No. 3.b, the Respondents failed to pay regulatory assessment fees for the TCEQ Public Utility Account concerning Certificate of Convenience and Necessity No. 12621, in violation of 30 TEX. ADMIN. CODE § 291.76 and TEX. WATER CODE § 5.702.
9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondents for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of \$6,375 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). The Respondents paid the \$6,375 penalty.

III. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Conclusion of Law No. 10 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondents' compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water, Docket No. 2021-0561-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 Respondents are jointly and severally liable for the violations documented in this Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Mail or directly deliver one copy of the CCR prepared using the compliance data for the most recent calendar year to each bill paying customer and make a good faith effort to deliver the CCR to non-bill

paying customers, in accordance with 30 TEX. ADMIN. CODE §§ 290.271 and 290.274;

- ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91260088. The payment shall be sent with the notation "James E. Danning dba North Whispering Meadows Water and Christel L. Danning dba North Whispering Meadows Water, Financial Administration Account No. 91260088" to the address listed in Ordering Provision No. 1; and
 - iii. Submit payment for all outstanding regulatory assessment fees for the TCEQ Public Utility Account concerning Certificate of Convenience and Necessity No. 12621 for calendar year 2020. The payment, along with the associated Revenue and Regulatory Assessment Reports, shall be sent to the address listed in Ordering Provision No. 1.
- b. Within 45 days after the effective date of this Order:
- i. Submit written certification as described in Ordering Provision No. 3.c below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.i; and
 - ii. Submit to the Commission a copy of the CCR provided to customers of the Facility and the certification that the CCR has been provided to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, in accordance with 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

CCR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- c. Within 60 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. 3.b.ii. The certification shall be signed by the Respondents 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:

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

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive 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.
7. 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 Respondents have not complied with one or more of the terms in this Order.
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. This Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the 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.

10. 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.
11. 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



6/8/2022

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.

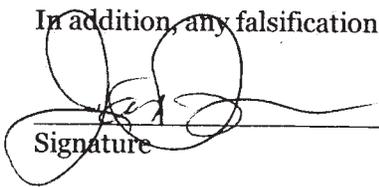
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

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

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

Signature

Date


JAMES DANNING

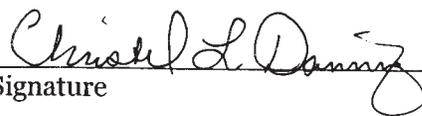
Title

Name (Printed or typed)
Authorized Representative of
James E. Danning dba North Whispering Meadows Water

OWNER / OPERATOR

Signature

Date


Christel L. Danning

Title

Name (Printed or typed)
Authorized Representative of
Christel L. Danning dba North Whispering Meadows Water

Owner / Operator

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

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