

**Executive Summary – Enforcement Matter – Case No. 60768**  
**THE ORCHARDS ON THE BRAZOS, LLC**  
**RN111113338**  
**Docket No. 2021-0753-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

The Orchards on The Brazos, 1974 County Road 307, Cleburne, Somervell 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:** June 3, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,107

**Amount Deferred for Expedited Settlement:** \$3,220

**Total Paid to General Revenue:** \$12,887

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

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 19, 2021 through April 30, 2021, May 17, 2021, and July 9, 2021 through July 23, 2021

**Date(s) of NOE(s):** April 30, 2021 and August 31, 2021

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***Violation Information***

1. Failed to collect and report the results of cyanide, metals, minerals, asbestos, and nitrite sampling to the Executive Director (“ED”) for the January 1, 2020 through December 31, 2020 monitoring period [30 TEX. ADMIN. CODE § 290.106(c) and (e)].
2. Failed to collect and report the results of volatile organic chemical (“VOC”) contaminants and synthetic organic chemical (“SOC”) contaminants (Methods 504, 515, and 531) sampling to the ED for the October 1, 2020 through December 31, 2020 monitoring period [30 TEX. ADMIN. CODE § 290.107(c) and (e)].
3. Failed to collect and report the results of SOC contaminants Group 5 sampling to the ED for the October 1, 2020 through December 31, 2020 monitoring period [30 TEX. ADMIN. CODE § 290.107(c) and (e)].
4. 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 for the fourth quarter of 2020 [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
5. Failed to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 92130046 for Fiscal Year 2021 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].
6. Failed to issue a boil water notice (“BWN”) to the customers of the Facility within 24 hours of a low disinfectant residual. Specifically, a BWN was not issued within 24 hours of the 0.0 milligrams per liter disinfectant residual on July 9, 2021 [30 TEX. ADMIN. CODE § 290.46(q)(1)].
7. Failed to maintain a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system at all times. Specifically, on July 9, 2021, a free chlorine residual concentration of 0.0 milligrams per liter was measured at 10088 Orchards Boulevard (Lot 23) [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
8. 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. Specifically, there was no ownership sign at the water plant [30 TEX. ADMIN. CODE § 290.46(t)].
9. Failed to maintain water works operations and maintenance records and make them readily available for review by the ED upon request. Specifically, records of the amount of each chemical used each week and the amount of water distributed each week were not maintained on-site for review [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(i)(III), and (f)(3)(A)(ii)(III)].

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10. 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)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By maintaining a disinfectant residual of at least 0.2 milligrams per liter of free chlorine throughout the distribution system on July 23, 2021;
- b. By collecting and reporting VOC contaminants and SOC contaminants (Methods 504, 515, and 531) on July 30, 2021;
- c. By collecting and reporting SOC contaminants Group 5 on September 3, 2021; and
- d. By submitting a DLQOR on December 21, 2021.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, issue a BWN.
- b. Within 30 days:
  - i. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 92130046;
  - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results for cyanide, metal, mineral, asbestos, and nitrite are collected, analyzed, and released by the Facility's laboratories and timely reported to the ED within the first ten days following the month in which the result is received by the Facility, or the first ten days following the end of the required monitoring period, whichever is first;
  - iii. Collect the required number of cyanide, metal, mineral, asbestos, and nitrite samples, have the samples analyzed, and report the results to the ED within the first ten days following the month in which the results are received by the Facility, or the first ten days following the end of the required monitoring period, whichever is first. This provision will be satisfied upon the timely delivery of all sampling results to the ED for one compliant annual monitoring period;

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- iv. Develop a written protocol to ensure that all future BWNs for low disinfectant residuals are provided to customers of the Facility within 24 hours;
  - v. Compile and maintain properly completed water works operations and maintenance records, including records of the amount of each chemical used each week and the amount of water distributed each week; and
  - vi. Monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.
- c. Within 45 days, submit written certification to demonstrate compliance with a., b.ii. and b.iv. through b.vi.
- d. Within 60 days, provide a legible sign at each production, treatment, and storage facility with an emergency phone number where a responsible official can be contacted.
- e. Within 75 days, submit written certification to demonstrate compliance with d.
- f. Within 410 days, submit written certification to demonstrate compliance with b.iii.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Carlos Molina, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2557; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Oscar Rohne, President, THE ORCHARDS ON THE BRAZOS, LLC, 665 Simonds Road, Williamstown, Massachusetts 01267

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	3-May-2021	<b>Screening</b>	17-May-2021	<b>EPA Due</b>	30-Jun-2021
	<b>PCW</b>	20-May-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	THE ORCHARDS ON THE BRAZOS, LLC
<b>Reg. Ent. Ref. No.</b>	RN111113338
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60768	<b>No. of Violations</b>	5
<b>Docket No.</b>	2021-0753-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Carlos Molina
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$8,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>32.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,560</b>
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Notes: Enhancement for two NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order containing a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$425</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$503  
 Estimated Cost of Compliance \$1,314  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$10,135</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>4.7%</b> Adjustment	<b>\$473</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated with Violation No. 1.

<b>Final Penalty Amount</b>	<b>\$10,608</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$10,608</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$2,121</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$8,487</b>
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Screening Date 17-May-2021

Docket No. 2021-0753-PWS-E

PCW

Respondent THE ORCHARDS ON THE BRAZOS, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60768

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111113338

Media Public Water Supply

Enf. Coordinator Carlos Molina

### 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> )	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)** 32%

#### >> Repeat Violator (Subtotal 3)

N/A

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

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

Unclassified

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

#### >> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 32%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 32%

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Docket No. 2021-0753-PWS-E

PCW

Respondent THE ORCHARDS ON THE BRAZOS, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60768

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111113338

Media Public Water Supply

Enf. Coordinator Carlos Molina

Violation Number 1

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

Violation Description Failed to collect and report the results of cyanide, metals, minerals, asbestos, and nitrite 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

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 collect and report cyanide, metals, minerals, asbestos, and nitrite sampling could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 5

127 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

Five single events are recommended (one for each missed sample).

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$480

Violation Final Penalty Total \$5,181

This violation Final Assessed Penalty (adjusted for limits) \$5,181

## Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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	\$100	19-Apr-2021	2-Oct-2022	1.45	\$7	n/a	\$7
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 implement process procedures, guidance, and training and/or oversight to ensure that future drinking water sample results are collected, analyzed and released by the Facility's laboratories and timely reported to the Executive Director, calculated from the record review 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				0.00	\$0	\$0	\$0
Other (as needed)	\$464	31-Dec-2020	17-May-2021	0.38	\$9	\$464	\$473

**Notes for AVOIDED costs** The avoided cost includes the estimated amount to collect and have analyzed chemical analysis samples (\$55.36 for cyanide + \$8.74 for nitrite + \$164.96 for metals + \$105.32 for minerals + \$130 for asbestos contaminants), calculated from the date when sampling was required to the screening date.

**Approx. Cost of Compliance** \$564

**TOTAL** \$480



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PCW

Respondent THE ORCHARDS ON THE BRAZOS, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60768

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111113338

Media Public Water Supply

Enf. Coordinator Carlos Molina

Violation Number 2

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

Violation Description

Failed to collect and report the results of volatile organic chemical ("VOC") contaminants and synthetic organic chemical ("SOC") contaminants (Methods 504, 515, and 531) sampling to the Executive Director for the October 1, 2020 through December 31, 2020 monitoring period.

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 collect and report SOC contaminants and VOC contaminants sampling could expose persons served by Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 4 Number of violation days 127

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Four single events are recommended (one for each missed sample).

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 July 30, 2021.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$3,831

This violation Final Assessed Penalty (adjusted for limits) \$3,831

## Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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)	\$516	31-Dec-2020	30-Jul-2021	0.58	\$15	n/a	\$15

#### Notes for DELAYED costs

The Other delayed cost includes the estimated amount to collect and have analyzed chemical analysis samples (\$56.77 for VOC + \$77.94 for SOC contaminants Method 504 + \$322.65 for SOC contaminants Method 515 + \$58.72 for SOC contaminants Method 531), calculated from the date when sampling was required 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 \$516

**TOTAL** \$15

**Screening Date** 17-May-2021 **Docket No.** 2021-0753-PWS-E **PCW**  
**Respondent** THE ORCHARDS ON THE BRAZOS, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60768 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Enf. Coordinator** Carlos Molina

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

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

**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 EDPRP/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** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$212	31-Dec-2020	3-Sep-2021	0.67	\$7	n/a	\$7

**Notes for DELAYED costs**  
 The Other delayed cost includes the estimated amount to collect and have analyzed chemical analysis samples for SOC contaminants Group 5, calculated from the date when sampling was required 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** \$7

<b>Screening Date</b>	17-May-2021	<b>Docket No.</b>	2021-0753-PWS-E	<b>PCW</b>
<b>Respondent</b>	THE ORCHARDS ON THE BRAZOS, LLC			<i>Policy Revision 5 (January 28, 2021)</i>
<b>Case ID No.</b>	60768			<i>PCW Revision February 11, 2021</i>
<b>Reg. Ent. Reference No.</b>	RN111113338			
<b>Media</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Carlos Molina			
<b>Violation Number</b>	4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.110(e)(4)(A), and (f)(3)			
<b>Violation Description</b>	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 fourth quarter of 2020.			
		<b>Base Penalty</b>	\$5,000	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 10.0%

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

**Adjustment** \$4,500

\$500

**Violation Events**

Number of Violation Events: 1      90 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes: The Respondent achieved compliance on December 21, 2021.

**Violation Subtotal** \$450

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

**Estimated EB Amount** \$1      **Violation Final Penalty Total** \$638

**This violation Final Assessed Penalty (adjusted for limits)** \$638

# Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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)	\$22	10-Jan-2021	21-Dec-2021	0.95	\$1	n/a	\$1

**Notes for DELAYED costs**  
 The Other delayed cost includes the estimated amount to prepare and submit a DLQOR (\$22 per DLQOR x one report), calculated from the date the report was due for the fourth quarter of 2020 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** \$22

**TOTAL** \$1

**Screening Date** 17-May-2021 **Docket No.** 2021-0753-PWS-E **PCW**  
**Respondent** THE ORCHARDS ON THE BRAZOS, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60768 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Enf. Coordinator** Carlos Molina

**Violation Number** 5  
**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. 92130046 for Fiscal Year 2021.

**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
					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 Respondent does 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** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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)				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





# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned PCW</b>	7-Sep-2021	<b>Screening</b>	22-Sep-2021	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	THE ORCHARDS ON THE BRAZOS, LLC					
<b>Reg. Ent. Ref. No.</b>	RN111113338					
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	60768	<b>No. of Violations</b>	5			
<b>Docket No.</b>	2021-0753-PWS-E	<b>Order Type</b>	1660			
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Carlos Molina			
		<b>EC's Team</b>	Enforcement Team 2			
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>	\$5,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,300
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	32.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$1,376
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Notes: Enhancement for two NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order containing a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$187
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<b>Economic Benefit</b>	0.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$30  
 Estimated Cost of Compliance: \$515  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,489
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.2%	<b>Adjustment</b>	\$10
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with Violation No. 5.

<b>Final Penalty Amount</b>	\$5,499
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,499
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<b>DEFERRAL</b>	20.0%	<b>Reduction</b>	<b>Adjustment</b>	-\$1,099
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$4,400
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**Screening Date** 22-Sep-2021

**Docket No.** 2021-0753-PWS-E

**PCW**

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC

Policy Revision 5 (January 28, 2021)

**Case ID No.** 60768

PCW Revision February 11, 2021

**Reg. Ent. Reference No.** RN111113338

**Media** Public Water Supply

**Enf. Coordinator** Carlos Molina

### 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> )	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)** 32%

**>> Repeat Violator (Subtotal 3)**

N/A

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

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

Unclassified

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

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for two NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 32%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 32%

Screening Date 22-Sep-2021

Docket No. 2021-0753-PWS-E

PCW

Respondent THE ORCHARDS ON THE BRAZOS, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 60768

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN111113338

Media Public Water Supply

Enf. Coordinator Carlos Molina

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.46(q)(1)

Violation Description

Failed to issue a boil water notice ("BWN") to the customers of the Facility within 24 hours of a low disinfectant residual using the prescribed format in 30 Tex. Admin. Code § 290.47(c). Specifically, a BWN was not issued within 24 hours of the 0.0 milligram per liter ("mg/L") disinfectant residual on July 9, 2021.

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 issue proper boil water notices may not allow affected customers to take appropriate measures in response to low disinfection residuals, which 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 1

75 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$992

This violation Final Assessed Penalty (adjusted for limits) \$992

# Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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	\$100	10-Jul-2021	2-Oct-2022	1.23	\$6	n/a	\$6
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	10-Jul-2021	2-Oct-2022	1.23	\$6	n/a	\$6

**Notes for DELAYED costs**

The Other delayed cost includes the estimated amount necessary to provide a BWN, calculated from the date the BWN was required to the estimated date of compliance.

The Training/Sampling delayed cost includes the estimated amount to develop and implement a written protocol that is to be followed to ensure boil water notifications are issued to customers in the specific format and provided to the Executive Director within 24 hours or no later than the next business day after issuance, calculated from the date of BWN was due to the Executive Director 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 \$200

**TOTAL** \$12

**Screening Date** 22-Sep-2021 **Docket No.** 2021-0753-PWS-E **PCW**  
**Respondent** THE ORCHARDS ON THE BRAZOS, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60768 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Enf. Coordinator** Carlos Molina

**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 disinfectant residual of at least 0.2 mg/L of free chlorine throughout the distribution system at all times. Specifically, on July 9, 2021, a free chlorine residual concentration of 0.0 mg/L was measured at 10088 Orchards Boulevard (Lot 23).

**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 maintain 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 1 14 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$750

One monthly event is recommended, calculated from the investigation date of July 9, 2021 to the date of compliance of July 23, 2021.

**Good Faith Efforts to Comply** 25.0% Reduction \$187

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

**Notes** The Respondent achieved compliance on July 23, 2021.

**Violation Subtotal** \$563

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

**Estimated EB Amount** \$0 **Violation Final Penalty Total** \$804

**This violation Final Assessed Penalty (adjusted for limits)** \$804

## Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### 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)	\$200	9-Jul-2021	23-Jul-2021	0.04	\$0	n/a	\$0
<b>Notes for DELAYED costs</b>	The delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and maintain a disinfectant residual of at least 0.2 mg/L of 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
<b>Notes for AVOIDED costs</b>							

Approx. Cost of Compliance \$200

**TOTAL** \$0

**Screening Date** 22-Sep-2021 **Docket No.** 2021-0753-PWS-E **PCW**  
**Respondent** THE ORCHARDS ON THE BRAZOS, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60768 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Enf. Coordinator** Carlos Molina

**Violation Number** 3  
**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. Specifically, there was no ownership sign at the water plant.

**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 1 75 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

**Violation Subtotal** \$500

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

**Estimated EB Amount** \$4 **Violation Final Penalty Total** \$661

**This violation Final Assessed Penalty (adjusted for limits)** \$661

## Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	9-Jul-2021	1-Nov-2022	1.32	\$0	\$4	\$4
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 post a legible sign that contains the ownership information at the water plant, 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$50

**TOTAL** \$4



**Screening Date** 22-Sep-2021 **Docket No.** 2021-0753-PWS-E **PCW**  
**Respondent** THE ORCHARDS ON THE BRAZOS, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60768 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Enf. Coordinator** Carlos Molina

**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.46(f)(2), (f)(3)(A)(i)(III), and (f)(3)(A)(ii)(III)  
**Violation Description** Failed to maintain water works operations and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, records of the amount of each chemical used each week and the amount of water distributed each week were not maintained on-site for review.

**Base Penalty** \$5,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

**>> Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1.0%

Matrix Notes: Less than 30% of the rule requirements were not met.

**Adjustment** \$4,950

\$50

**Violation Events**

Number of Violation Events 1 75 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** \$66

**This violation Final Assessed Penalty (adjusted for limits)** \$66

## Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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	9-Jul-2021	2-Oct-2022	1.23	\$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 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$45

**TOTAL** \$3

**Screening Date** 22-Sep-2021 **Docket No.** 2021-0753-PWS-E **PCW**  
**Respondent** THE ORCHARDS ON THE BRAZOS, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60768 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN111113338  
**Media** Public Water Supply  
**Enf. Coordinator** Carlos Molina

**Violation Number** 5  
**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**

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 at least once every seven days 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 3 75 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$2,250

Three monthly events are recommended, calculated from the investigation date of July 9, 2021 to the screening date of September 22, 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** \$2,250

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

**Estimated EB Amount** \$11 **Violation Final Penalty Total** \$2,975

**This violation Final Assessed Penalty (adjusted for limits)** \$2,975

## Economic Benefit Worksheet

**Respondent** THE ORCHARDS ON THE BRAZOS, LLC  
**Case ID No.** 60768  
**Reg. Ent. Reference No.** RN111113338  
**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)	\$10	9-Jul-2021	2-Oct-2022	1.23	\$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	9-Jul-2021	22-Sep-2021	0.21	\$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 screening date.

Approx. Cost of Compliance

\$20

**TOTAL**

\$11



# Compliance History Report

Compliance History Report for CN604324152, RN111113338, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604324152, THE ORCHARDS ON THE BRAZOS, LLC	<b>Classification:</b> UNCLASSIFIED	<b>Rating:</b> -----
<b>Regulated Entity:</b>	RN111113338, THE ORCHARDS ON THE BRAZOS	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	1974 COUNTY ROAD 307 IN CLEBURNE, SOMERVELL COUNTY, TEXAS		
<b>TCEQ Region:</b>	REGION 04 - DFW METROPLEX		
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2130046		

<b>Compliance History Period:</b>	September 01, 2016 to August 31, 2021	<b>Rating Year:</b>	2021	<b>Rating Date:</b>	09/01/2021
<b>Date Compliance History Report Prepared:</b>	February 25, 2022				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	February 25, 2017 to February 25, 2022				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Carlos Molina		<b>Phone:</b>	(512) 239-2557	

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? The Orchards on the Brazos, LLC OWNER since 10/8/2020
- 4) Who was/were the prior owner(s)/operator(s)? Aqua Texas, Inc., OWNER, 6/29/2021 to 6/29/2021

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

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

- 1 Effective Date: 11/30/2021 ADMINORDER 2020-1529-PWS-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)  
Description: Failure to obtain approval to use the well before placing it into service. A12d(1), MAJOR(1)(B)  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)  
5A THSC Chapter 341, SubChapter A 341.033(a)  
Description: Failure to have a licensed operator. A3.b, MOD(2)(C)  
Classification: Major  
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: Failure to obtain approval for engineering plans and specifications prior to constructing a community public water system. A12d.1, MAJOR(1)(B)  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)  
Description: Failure to maintain a disinfectant residual of at least 0.2 milligrams per liter (mg/L) free chlorine at the entry



Description: 30 TAC Chapter 290, SubChapter F 290.107(e)  
VOC MR 4Q2020 - The system failed to monitor and/or report volatile organic  
contaminants levels to the TCEQ for the quarterly monitoring period from 10/01/2020  
to 12/31/2020 within the required timeline.

3 Date: 04/01/2021 (1710639)  
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

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
THE ORCHARDS ON THE  
BRAZOS, LLC  
RN111113338**

**§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0753-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 THE ORCHARDS ON THE BRAZOS, LLC (the "Respondent") under the authority of TEX. WATER CODE ch. 5 and 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 1974 County Road 307 in Cleburne, Somervell County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 21 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. 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. WATER CODE ch. 5, 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 \$16,107 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$12,887 of the penalty and \$3,220 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, 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 maintaining a disinfectant residual of at least 0.2 milligram per liter ("mg/L") of free chlorine throughout the distribution system on July 23, 2021;
  - b. By collecting and reporting volatile organic chemical ("VOC") contaminants and synthetic organic chemical ("SOC") contaminants (Methods 504, 515, and 531) on July 30, 2021;
  - c. By collecting and reporting SOC contaminants Group 5 on September 3, 2021; and
  - d. By submitting Disinfection Level Quarterly Operating Report ("DLQOR") on December 21, 2021.

## **II. ALLEGATIONS**

1. During a record review conducted on April 19, 2021 through April 30, 2021, an investigator documented that the Respondent:
  - a. Failed to collect and report the results of cyanide, metals, minerals, asbestos, and nitrite sampling to the Executive Director for the January 1, 2020 through December 31, 2020 monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.106(c) and (e);
  - b. Failed to collect and report the results of VOC contaminants and SOC contaminants (Methods 504, 515, and 531) sampling to the Executive Director for the October 1, 2020 through December 31, 2020 monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.107(c) and (e);

- c. Failed to collect and report the results of SOC contaminants Group 5 sampling to the Executive Director for the October 1, 2020 through December 31, 2020 monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.107(c) and (e); and
  - d. Failed to submit a DLQOR to the Executive Director by the tenth day of the month following the end of each quarter for the fourth quarter of 2020, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
2. During a record review conducted on May 17, 2021, an investigator documented that the Respondent failed to pay annual Public Health Service fees and/or any associated late fees for TCEQ Financial Administration Account No. 92130046 for Fiscal Year 2021, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
3. During an investigation conducted on July 9, 2021 through July 23, 2021, an investigator documented that the Respondent:
  - a. Failed to issue a boil water notice ("BWN") to the customers of the Facility within 24 hours of a low disinfectant residual using the prescribed format in 30 TEX. ADMIN. CODE § 290.47(c), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1). Specifically, a BWN was not issued within 24 hours of the 0.0 mg/L disinfectant residual on July 9, 2021;
  - b. Failed to maintain a disinfectant residual of at least 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, on July 9, 2021, a free chlorine residual concentration of 0.0 mg/L was measured at 10088 Orchards Boulevard (Lot 23);
  - c. 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). Specifically, there was no ownership sign at the water plant;
  - d. Failed to maintain water works operations 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), (f)(3)(A)(i)(III), and (f)(3)(A)(ii)(III). Specifically, records of the amount of each chemical used each week and the amount of water distributed each week were not maintained on-site for review; and
  - e. 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).

### III. DENIALS

The Respondent generally deny 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: THE ORCHARDS ON THE BRAZOS, LLC, Docket No. 2021-0753-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. Immediately upon the effective date of this Order, issue a BWN for THE ORCHARDS ON THE BRAZOS, LLC, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 30 days after the effective date of this Order:
    - i. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 92130046. The payment shall be sent with the notation "THE ORCHARDS ON THE BRAZOS, LLC, Financial Administration Account No. 92130046" to the address listed in Ordering Provision No. 1, above;
    - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results for cyanide, metal, mineral, asbestos, and nitrite are collected, analyzed, and released by the Facility's laboratories and timely reported to the Executive Director within the first ten days following the month in which the result is received by the Facility, or the first ten days following the end of the required monitoring period, whichever is first, in accordance 30 TEX. ADMIN. CODE § 290.106;
    - iii. Collect the required number of cyanide, metal, mineral, asbestos, and nitrite samples, have the samples analyzed, and report the results to the Executive Director within the first ten days following the month in which the results are received by the Facility, or the first ten days following the

end of the required monitoring period, whichever is first, in accordance with 30 TEX. ADMIN. CODE § 290.106. This provision will be satisfied upon the timely delivery of all sampling results to the Executive Director for one compliant annual monitoring period;

- iv. Develop a written protocol to ensure that all future BWNs for low disinfectant residuals are provided to customers of the Facility within 24 hours, in accordance with 30 TEX. ADMIN. CODE § 290.46;
  - v. Compile and maintain properly completed water works operations and maintenance records, including records of the amount of each chemical used each week and the amount of water distributed each week, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
  - vi. 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.
- c. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a, 2.b.ii, and 2.b.iv through 2.b.vi.
  - d. Within 60 days after the effective date of this Order, provide a legible sign at each production, treatment, and storage facility with an emergency phone number where a responsible official can be contacted, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - e. Within 75 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d.
  - f. Within 410 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.b.iii. 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 78711-308

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 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

\_\_\_\_\_  
11/7/2022


\_\_\_\_\_  
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.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
10/14/22  
Date

\_\_\_\_\_  
OSCAR ROHNE  
Name (Printed or typed)  
Authorized Representative of  
THE ORCHARDS ON THE BRAZOS, LLC

\_\_\_\_\_  
President  
Title

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