

Executive Summary – Enforcement Matter – Case No. 61817

Undine Texas, LLC

RN101217552

Docket No. 2022-0108-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Springmont Subdivision, 20807 Marilyn Lane near Spring, Harris 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: December 2, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,819

Amount Deferred for Expedited Settlement: \$1,963

Total Paid to General Revenue: \$7,856

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: Yes

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: October 6, 2021

Date(s) of NOE(s): January 11, 2022

Executive Summary – Enforcement Matter – Case No. 61817

Undine Texas, LLC

RN101217552

Docket No. 2022-0108-PWS-E

Violation Information

1. Failed to enclose the treatment plant and related appurtenances by an intruder-resistant fence with gates that shall be locked during periods of darkness and when the Facility is unattended. Specifically, the barbed wire for the fence at Plant No. 1 was not facing outward at a 45-degree angle [30 TEX. ADMIN. CODE § 290.42(m)].
2. Failed to provide containment facilities for all liquid chemical storage tanks. Specifically, a 65-gallon double-walled sodium hypochlorite tank had no containment facilities [30 TEX. ADMIN. CODE 290.42(f)(1)(E)(ii)].
3. Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the Facility had 198 connections requiring a well capacity of 119 gpm. However, only 43 gpm of well capacity was provided, indicating a 64% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented a corrective measure by receiving approval to use the 65-gallon double-walled sodium hypochlorite tank by April 21, 2022.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 90 days, enclose the treatment plant and related appurtenances by an intruder-resistant fence with gates that shall be locked during periods of darkness and when the Facility is unattended;
- b. Within 105 days, submit written certification to demonstrate compliance with a.;
- c. Within 180 days, provide a well capacity of at least 0.6 gpm per connection; and
- d. Within 195 days, submit written certification to demonstrate compliance with c.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Miles Wehner, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2813; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Carey Thomas, Senior Vice President, Undine Texas, LLC, 17681 Telge Road, Cypress, Texas 77429

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Jan-2022	Screening	20-Jan-2022	EPA Due	
	PCW	26-Jan-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Undine Texas, LLC
Reg. Ent. Ref. No.	RN101217552
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61817	No. of Violations	3
Docket No.	2022-0108-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miles Wehner
		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,850
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27.0% Adjustment	Subtotals 2, 3, & 7	\$2,119
---------------------------	------------------	--------------------------------	---------

Notes: Enhancement for one non-adjudicated final court judgement containing a denial of liability. Reduction for one notice of intent to conduct an audit and one disclosure of violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$150
--	-------------------	--------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$700
 Estimated Cost of Compliance: \$6,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,819
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$9,819
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$9,819
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0%	Reduction	Adjustment	-\$1,963
-----------------	-------	-----------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$7,856
------------------------	---------

Screening Date 20-Jan-2022

Docket No. 2022-0108-PWS-E

PCW

Respondent Undine Texas, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 61817

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101217552

Media Public Water Supply

Enf. Coordinator Miles Wehner

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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>)	1	30%
	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>)	1	-1%
	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>)	1	-2%
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) 27%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one non-adjudicated final court judgement containing a denial of liability.
Reduction for one notice of intent to conduct an audit and one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 27%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 27%

Screening Date 20-Jan-2022
Respondent Undine Texas, LLC
Case ID No. 61817
Reg. Ent. Reference No. RN101217552
Media Public Water Supply
Enf. Coordinator Miles Wehner

Docket No. 2022-0108-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

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

Violation Description
 Failed to enclose the treatment plant and related appurtenances by an intruder-resistant fence with gates that shall be locked during periods of darkness and when the Facility is unattended. Specifically, the barbed wire for the fence at Plant No. 1 was not facing outward at a 45-degree angle.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR			Harm			
	Release	Major	Moderate	Minor		
	Actual					
	Potential			x		Percent 7.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes
 Failure to protect the treatment plant could expose persons served served by the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,650

\$350

Violation Events

Number of Violation Events 1 106 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$350

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 \$350

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$78

Violation Final Penalty Total \$445

This violation Final Assessed Penalty (adjusted for limits) \$445

Economic Benefit Worksheet

Respondent Undine Texas, LLC
Case ID No. 61817
Reg. Ent. Reference No. RN101217552
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$750	6-Oct-2021	29-Mar-2023	1.48	\$4	\$74	\$78
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 enclose the treatment plant and related appurtenances with an intruder-resistant fence with gates that shall be locked during periods of darkness and when the Facility is unattended, 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 \$750

TOTAL \$78

Screening Date 20-Jan-2022
Respondent Undine Texas, LLC
Case ID No. 61817
Reg. Ent. Reference No. RN101217552
Media Public Water Supply
Enf. Coordinator Miles Wehner

Docket No. 2022-0108-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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 checked="" type="text" value="x"/>
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 checked="" type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Undine Texas, LLC
Case ID No. 61817
Reg. Ent. Reference No. RN101217552
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)	\$500	6-Oct-2021	21-Apr-2022	0.54	\$1	\$18	\$19
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide adequate containment facilities for the 65-gallon double-walled sodium hypochlorite tank, calculated from the investigation date to the date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$19

Screening Date 20-Jan-2022
Respondent Undine Texas, LLC
Case ID No. 61817
Reg. Ent. Reference No. RN101217552
Media Public Water Supply
Enf. Coordinator Miles Wehner

Docket No. 2022-0108-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="checkbox"/>
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 Undine Texas, LLC
Case ID No. 61817
Reg. Ent. Reference No. RN101217552
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)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	6-Oct-2021	27-Jun-2023	1.72	\$29	\$574	\$603
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide a well capacity of at least 0.6 gpm per connection, 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 \$5,000

TOTAL \$603



Compliance History Report

Compliance History Report for CN605397827, RN101217552, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605397827, Undine Texas, LLC **Classification:** UNCLASSIFIED **Rating:** -----
Regulated Entity: RN101217552, SPRINGMONT SUBDIVISION **Classification:** NOT APPLICABLE **Rating:** N/A
Complexity Points: N/A **Repeat Violator:** N/A
CH Group: 14 - Other
Location: 20807 Marilyn Lane near Spring, Harris County, Texas
TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1010255

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: August 30, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 30, 2017 to August 30, 2022

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

Name: Miles Wehner **Phone:** (512) 239-2813

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

- 1 Effective Date: 06/10/2020 COURTORDER (Final Judgement-Agreed Order With Denial)
 Classification: Moderate
 Citation: 2A TWC Chapter 7, SubChapter A 7.101
 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
 Description: Failure to provide a pressure tank capacity of 20 gallons per connection.
 Classification: Moderate
 Citation: 2A TWC Chapter 7, SubChapter A 7.101
 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain water storage facility in a watertight condition. In this connection, the leaking ground storage tank (GST) must be repaired or replaced as necessary.
 Classification: Moderate
 Citation: 2A TWC Chapter 7, SubChapter A 7.101
 30 TAC Chapter 290, SubChapter D 290.38(41)
 30 TAC Chapter 290, SubChapter D 290.42(m)
 Description: Failure to install three strands of barbed wire at the top of the fence at the entrance gate of the water plant.
 Classification: Moderate
 Citation: 2A TWC Chapter 7, SubChapter A 7.101
 30 TAC Chapter 290, SubChapter D 290.45(h)(1)
 Description: Failure to meet the requirements of the affected utilities' Emergency Preparedness Plan (EPP) by providing the option selected in the EPP.
 Classification: Moderate
 Citation: 2A TWC Chapter 7, SubChapter A 7.101

30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv)

Description: Failure by the regulated entity to calibrate the well meter required by 30 TAC 290.41(c)(3)(N) according to the manufacturer's specifications at least once every three years.

Classification: Moderate

Citation: 2A TWC Chapter 7, SubChapter A 7.101

30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

Description: Failure to provide a well capacity of 0.6 gallons per minute per connection.

Classification: Moderate

Citation: 2A TWC Chapter 7, SubChapter A 7.101

30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to properly maintain the regulated entity by not repairing or replacing the ceiling in the service pump room.

Classification: Moderate

Citation: 2A TWC Chapter 7, SubChapter A 7.101

30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)

Description: Failure to conduct an inspection of the ground storage tank at least annually.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

Notice of Intent Date: 08/15/2018 (1513853)

Disclosure Date: 08/15/2018

Viol. Classification: Moderate

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

Description: Failure to meet national electric code (exposed wiring and open panels).

Viol. Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(h)(1)(A)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(B)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(C)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(D)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(E)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(F)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(G)

30 TAC Chapter 290, SubChapter D 290.45(h)(1)(H)

Description: Failure to maintain emergency power in accordance with EPP.

Viol. Classification: Moderate

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

Description: Failure to provide records on dead end main flushing, monthly.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110

Description: Failure to provide records on dead end main flushing, compliant.

Viol. Classification: Moderate

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

Description: Failure to comply with general maintenance and housekeeping. Site, structures, and tanks need repair or replacement along with documentation of inspections.

Viol. Classification: Moderate

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

30 TAC Chapter 290, SubChapter F 290.121(c)

Description: Failure to maintain a monitoring plan.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to maintain a water distribution system map.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to maintain a plant operations manual, no complete manuals.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)

Description: Failure to maintain adequate fencing. Fencing needs repair.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to provide records on well meter calibration.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide sanitary control easements.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(a)

Description: Failure to provide inorganic contaminants test records.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.107(a)

Description: Failure to provide synthetic organic contaminants test records.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.103

Description: Failure to provide Stage 1 disinfection by product test records.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)

Description: Failure to provide microbial contaminant test records.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(a)

Description: Failure to provide lead and copper test records.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide public notices to customers for failing to monitor.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure to provide 85% rule planning reports.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failure to provide customer service inspection reports.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

Description: Failure to provide the required pressure tank capacity.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

Description: Failure to provide the required well capacity.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

Description: Failure to provide the required service pump capacity.
Viol. Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

Description: Failure to provide the required storage tank capacity.

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
ENFORCEMENT ACTION
CONCERNING
UNDINE TEXAS, LLC
RN101217552**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2022-0108-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 Undine Texas, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 20807 Marilyn Lane near Spring, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 198 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. 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 \$9,819 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,856 of the penalty and \$1,963 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 has implemented a corrective measure at the Facility by receiving approval to use the 65-gallon double-walled sodium hypochlorite tank by April 21, 2022.

II. ALLEGATIONS

During an investigation at the Facility conducted on October 6, 2021, an investigator documented that the Respondent:

1. Failed to enclose the treatment plant and related appurtenances by an intruder-resistant fence with gates that shall be locked during periods of darkness and when the Facility is unattended, in violation of 30 TEX. ADMIN. CODE § 290.42(m). Specifically, the barbed wire for the fence at Plant No. 1 was not facing outward at a 45-degree angle.
2. Failed to provide containment facilities for all liquid chemical storage tanks, in violation of 30 TEX. ADMIN. CODE 290.42(f)(1)(E)(ii). Specifically, a 65-gallon double-walled sodium hypochlorite tank had no containment facilities.
3. Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 198 connections requiring a well capacity of 119 gpm. However, only 43 gpm of well capacity was provided, indicating a 64% deficiency.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Undine Texas, LLC, Docket No. 2022-0108-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Order, enclose the treatment plant and related appurtenances by an intruder-resistant fence with gates that shall be locked during periods of darkness and when the Facility is unattended, in accordance with 30 TEX. ADMIN. CODE § 290.42.
 - b. Within 105 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 180 days after the effective date of this Order, provide a well capacity of at least 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - d. Within 195 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be signed by the Respondent and shall include the following certification language:

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

information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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

1/13/2023

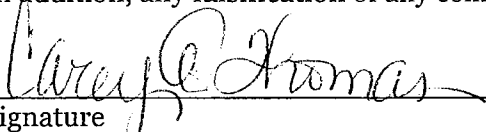
Date

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

10.30.22

Date

Carey A. Thomas

Name (Printed or typed)
Authorized Representative of
Undine Texas, LLC

Sr. Vice President

Title

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