

Executive Summary – Enforcement Matter – Case No. 62479

City of New Home

RN101389146

Docket No. 2022-0744-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – PWS, WR

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of New Home PWS, 106 East Broadway, New Home, Lynn 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: October 28, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,998

Amount Deferred for Expedited Settlement: \$1,799

Total Paid to General Revenue: \$7,199

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

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: March 14, 2022 through March 28, 2022

Date(s) of NOE(s): May 25, 2022

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City of New Home

RN101389146

Docket No. 2022-0744-MLM-E

Violation Information

1. Failed to maintain a disinfectant residual of at least 0.2 milligrams per liter ("mg/L") of free chlorine throughout the distribution system at all times. Specifically, on March 14, 2022, free chlorine residual concentrations of 0.05 mg/L and 0.09 mg/L were measured at 401 Smith Street and 358 North Main Street, respectively [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to seal the wellhead by a gasket or sealing compound and provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well. Specifically, Well No. 2 was not provided with a well casing vent [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].
3. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].
4. Failed to have all backflow prevention assemblies ("BPAs") tested upon installation and on an annual basis by a recognized BPA tester and certified that they are operating within specifications. Specifically, the BPAs for The Spot Market & Cafe at 102 North Main Street, 212 North Main Street, the northwest corner of Smith Avenue and East Broadway, and the irrigation systems at new home construction had not been tested [30 TEX. ADMIN. CODE § 290.44(h)(4)].
5. Failed to maintain water works operation and maintenance records and make them immediately available for review by the Executive Director upon request. Specifically, records of the amount of each chemical used each week were not maintained on-site for review and records of the amount of water treated and distributed each week were being recorded on a monthly basis and not weekly [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(A)(i)(III), and (f)(3)(A)(ii)(III)].
6. Failed to complete a Customer Service Inspection ("CSI") certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe cross-connections or other potential contamination hazards exist, or after any material improvements, corrections, or additions to the private water distribution system. Specifically, CSIs had not been conducted at newly constructed homes at 327 Hiracheta Drive, 212 North Main Street, 205 Stadium Drive, and the northwest corner of East Broadway and Smith Avenue, and the remodeled cafe at 102 North Main Street [30 TEX. ADMIN. CODE § 290.46(j)].

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7. Failed to inspect the Facility's ground storage tank and standpipe annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].

8. Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations [30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i)].

9. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days. Specifically, the residual was only being checked at the City Hall [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)].

10. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].

11. Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier [30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B) and TEX. WATER CODE § 11.1272(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. Maintaining a disinfectant residual of at least 0.2 mg/L of free chlorine throughout the distribution system by March 15, 2022; and

b. Completing CSI certificates for 212 North Main Street, 327 Hiracheta Drive and 205 Stadium Drive by April 6, 2022.

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Compile and maintain properly completed water works operation and maintenance records, including but not limited to records of the amount of each chemical used each week and records of the amount of water treated and distributed each week;

ii. Implement a CSI program so that CSI certificates are completed prior to providing continuous water service to new construction, or any existing service when the water purveyor has reason to believe that cross-connections or other potential hazards exist,

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or after any material improvements, corrections, or additions to the private water distribution facilities;

iii. Conduct inspections of the Facility's ground storage tanks and standpipes;

iv. Verify the accuracy of the manual disinfectant residual analyzer using chlorine solutions of known concentrations; and

v. Monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.

b. Within 45 days, submit written certification to demonstrate compliance with a.

c. Within 60 days:

i. Develop and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference;

ii. Ensure that all BPAs are tested upon installation and on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, including but not limited to The Spot Market & Cafe at 102 North Main Street, 212 North Main Street, the northwest corner of Smith Avenue and East Broadway, and the irrigation systems at new home construction; and

iii. Develop and maintain a chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements.

d. Within 75 days, submit written certification to demonstrate compliance with c.

e. Within 90 days:

i. Provide a well casing vent for Well No. 2 with an opening that is covered with 16-mesh or finer corrosion resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well;

ii. Complete a CSI for all existing locations at which the water purveyor has reason to believe cross-connections or other potential contamination hazards exist, including but not limited to the northwest corner of East Broadway and Smith Avenue, and the remodeled cafe at 102 North Main Street; and

iii. Prepare and adopt a complete drought contingency plan.

f. Within 105 days, submit written certification to demonstrate compliance with e.

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City of New Home
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Docket No. 2022-0744-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Daphne Greene, Enforcement Division, Enforcement Team 4, MC 219, (903) 535-5157; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Brad Emert, Mayor, City of New Home, P.O. Box 278, New Home, Texas 79383

Teresa Olsen, City Secretary/Manager, City of New Home, P.O. Box 278, New Home, Texas 79383

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	31-May-2022	Screening	1-Jun-2022	EPA Due	
	PCW	1-Jun-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of New Home (PCW No. 1)
Reg. Ent. Ref. No.	RN101389146
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62479	No. of Violations	10
Docket No.	2022-0744-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Rights	Enf. Coordinator	Ryan Byer
		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	\$7,050
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0% Adjustment	Subtotals 2, 3, & 7	\$1,410
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Notes: Enhancement for one agreed order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$62
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$333
Estimated Cost of Compliance	\$1,891

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,398
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$8,398

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,398
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,679
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,719
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Screening Date 1-Jun-2022

Docket No. 2022-0744-MLM-E

PCW

Respondent City of New Home (PCW No. 1)

Policy Revision 5 (January 28, 2021)

Case ID No. 62479

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101389146

Media Public Water Supply

Enf. Coordinator Ryan Byer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order containing a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 1-Jun-2022

Docket No. 2022-0744-MLM-E

PCW

Respondent City of New Home (PCW No. 1)

Policy Revision 5 (January 28, 2021)

Case ID No. 62479

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101389146

Media Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 1

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 milligrams per liter ("mg/L") of free chlorine throughout the distribution system at all times. Specifically, on March 14, 2022, free chlorine residual concentrations of 0.05 mg/L and 0.09 mg/L were measured at 401 Smith Street and 358 North Main Street, respectively.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Failure to maintain proper levels of disinfection could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 1

Table with frequency categories: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the date of the investigation, March 14, 2022, to the date of compliance, March 15, 2022.

Good Faith Efforts to Comply

25.0%

Reduction \$62

Table with columns: Extraordinary, Ordinary, N/A and sub-columns: Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

Notes The Respondent achieved compliance by March 15, 2022.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$238

This violation Final Assessed Penalty (adjusted for limits) \$238

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	14-Mar-2022	15-Mar-2022	0.00	\$0	n/a	\$0

Notes for DELAYED costs 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 date of the investigation to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$0

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-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			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input 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 type="text"/>
N/A	<input checked="" type="text" value="x"/>	<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 City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$150	14-Mar-2022	12-Mar-2023	0.99	\$0	\$10	\$10
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide a well casing vent for Well No. 2, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$150

TOTAL \$10

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 3

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

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

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1

79 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes: The 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 \$8

Violation Final Penalty Total \$600

This violation Final Assessed Penalty (adjusted for limits) \$600

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
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)	\$180	14-Mar-2022	10-Feb-2023	0.91	\$8	n/a	\$8

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$180

TOTAL \$8

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(4)

Violation Description

Failed to have all backflow prevention assemblies ("BPAs") tested upon installation and on an annual basis by a recognized BPA tester and certified that they are operating within specifications. Specifically, the BPAs for The Spot Market & Cafe at 102 North Main Street, 212 North Main Street, the northwest corner of Smith Avenue and East Broadway, and the irrigation systems at new home construction had not been tested.

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 test BPAs on an annual basis would not ensure the device is operating properly which could result in a reverse flow of contaminants entering into the water mains which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 3

79 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 date of the investigation, March 14, 2022, to the date of screening, June 1, 2022.

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 \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$196

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
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)	\$186	14-Mar-2022	10-Feb-2023	0.91	\$8	n/a	\$8

Notes for DELAYED costs

The delayed cost includes the estimated amount to test the BPAs (\$31 x six locations), calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$186	14-Mar-2022	1-Jun-2022	0.22	\$2	\$186	\$188
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to test the BPAs (\$31 x six locations), calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$372

TOTAL \$196

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 5

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 operation and maintenance records and make them immediately available for review by the Executive Director upon request. Specifically, records of the amount of each chemical used each week were not maintained on-site for review and records of the amount of water treated and distributed each week were being recorded on a monthly basis and not weekly.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 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

79 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$60

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

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	14-Mar-2022	11-Jan-2023	0.83	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to maintain water system operation and maintenance records and make them immediately available for inspection upon request by the Executive Director, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$45

TOTAL \$2

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 6

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

Violation Description

Failed to complete a Customer Service Inspection ("CSI") certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe cross-connections or other potential contamination hazards exist, or after any material improvements, corrections, or additions to the private water distribution system. Specifically, CSIs had not been conducted at newly constructed homes at 327 Hiracheta Drive, 212 North Main Street, 205 Stadium Drive, and the northwest corner of East Broadway and Smith Avenue, and the remodeled cafe at 102 North Main Street.

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 conduct a CSI could result in persons served by the Facility being exposed to contaminants which would exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 3

79 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 date of the investigation, March 14, 2022, to the date of screening, June 1, 2022.

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 \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	14-Mar-2022	12-Mar-2023	0.99	\$10	n/a	\$10
Record Keeping System	\$300	14-Mar-2022	6-Apr-2022	0.06	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$180	14-Mar-2022	11-Jan-2023	0.83	\$7	n/a	\$7

Notes for DELAYED costs

The record keeping system delayed cost includes the estimated amount to complete a CSI certificate prior to providing continuous water service to new construction or sites of any material changes, including but not limited to the newly constructed home at the northwest corner of East Broadway and Smith Avenue, and the remodeled cafe at 102 North Main Street, calculated from the date of the investigation to the estimated date of compliance.

The second record keeping system delayed cost includes the estimated amount to complete a CSI certificate prior to providing continuous water service to new construction or sites of any material changes, including but not limited to 212 North Main Street, 327 Hiracheta Drive, and 205 Stadium Drive, calculated from the date of the investigation to the date of compliance.

The other delayed cost includes the estimated amount to implement a CSI program so that CSI certificates are completed prior to providing continuous water service to new construction, or any existing service when the water purveyor has reason to believe that cross-connections or other potential hazards exist, or after any material improvements, corrections, or additions to the private water distribution facilities, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$680

TOTAL \$18

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(A)

Violation Description Failed to inspect the Facility's ground storage tank ("GST") and standpipe annually.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to inspect the Facility's GST and standpipe on an annual basis could cause the non-detection of defects and could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2

79 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Two single events are recommended, one event per tank.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$86

Violation Final Penalty Total \$600

This violation Final Assessed Penalty (adjusted for limits) \$600

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$82	14-Mar-2022	11-Jan-2023	0.83	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to conduct annual inspections of the GST and standpipe (\$41 per tank x two tanks), calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$82	14-Mar-2022	1-Jun-2022	0.22	\$1	\$82	\$83
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct annual inspections of the GST and standpipe (\$41 per tank x two tanks), calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$164

TOTAL \$86

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.46(s)(2)(C)(i)

Violation Description Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to verify the accuracy of the manual disinfectant residual analyzer could result in the non-detection of improperly disinfected water and potentially expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1 79 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$5	14-Mar-2022	11-Jan-2023	0.83	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to properly verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$5	14-Mar-2022	1-Jun-2022	0.22	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations, calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$10

TOTAL \$5

Screening Date 1-Jun-2022

Docket No. 2022-0744-MLM-E

PCW

Respondent City of New Home (PCW No. 1)

Policy Revision 5 (January 28, 2021)

Case ID No. 62479

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101389146

Media Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 9

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. Specifically, the residual was only being checked at the City Hall.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to 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 a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

79 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the date of the investigation, March 14, 2022, to the date of screening, June 1, 2022.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$300

This violation Final Assessed Penalty (adjusted for limits) \$300

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10	14-Mar-2022	11-Jan-2023	0.83	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to monitor the disinfectant residual at least once every seven days at representative locations throughout the distribution system, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$10

TOTAL \$0

Screening Date 1-Jun-2022
Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Enf. Coordinator Ryan Byer

Docket No. 2022-0744-MLM-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 10

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

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

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1

79 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes: The 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 \$8

Violation Final Penalty Total \$600

This violation Final Assessed Penalty (adjusted for limits) \$600

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 1)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Public Water Supply
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$180	14-Mar-2022	10-Feb-2023	0.91	\$8	n/a	\$8

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and begin maintaining a chemical and microbiological monitoring plan, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$180

TOTAL \$8



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	31-May-2022	Screening	1-Jun-2022	EPA Due	
	PCW	1-Jun-2022				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of New Home (PCW No. 2)		
Reg. Ent. Ref. No.	RN101389146		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	62479	No. of Violations	1	
Docket No.	2022-0744-MLM-E	Order Type	1660	
Media Program(s)	Water Rights	Government/Non-Profit	Yes	
Multi-Media	Public Water Supply	Enf. Coordinator	Ryan Byer	
		EC's Team	Enforcement Team 8	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

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

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

Compliance History	20.0% Adjustment	Subtotals 2, 3, & 7	\$100
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Notes: Enhancement for one agreed order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$18
Estimated Cost of Compliance	\$360

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$600

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$600
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DEFERRAL	20.0%	Reduction	Adjustment	-\$120
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$480
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Screening Date 1-Jun-2022

Docket No. 2022-0744-MLM-E

PCW

Respondent City of New Home (PCW No. 2)

Policy Revision 5 (January 28, 2021)

Case ID No. 62479

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101389146

Media Water Rights

Enf. Coordinator Ryan Byer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order containing a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 1-Jun-2022

Docket No. 2022-0744-MLM-E

PCW

Respondent City of New Home (PCW No. 2)

Policy Revision 5 (January 28, 2021)

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PCW Revision February 11, 2021

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Media Water Rights

Enf. Coordinator Ryan Byer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 288.20(a) and 288.30(5)(B) and Tex. Water Code § 11.1272(c)

Violation Description Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR			Harm			Percent
	Release	Major	Moderate	Minor	0.0%	
	Actual					
Potential						

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 79

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes The 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 \$18

Violation Final Penalty Total \$600

This violation Final Assessed Penalty (adjusted for limits) \$600

Economic Benefit Worksheet

Respondent City of New Home (PCW No. 2)
Case ID No. 62479
Reg. Ent. Reference No. RN101389146
Media Water Rights
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$360	14-Mar-2022	12-Mar-2023	0.99	\$18	n/a	\$18

Notes for DELAYED costs

The delayed cost includes the estimated amount to draft and adopt a drought contingency plan, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$360

TOTAL \$18



Compliance History Report

Compliance History Report for CN600684245, RN101389146, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN600684245, City Of New Home	Classification:	SATISFACTORY	Rating:	12.86
Regulated Entity:	RN101389146, CITY OF NEW HOME	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	106 EAST BROADWAY IN NEW HOME, LYNN COUNTY, TEXAS				
TCEQ Region:	REGION 02 - LUBBOCK				
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1530004				

Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	May 31, 2022				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	May 31, 2017 to May 31, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Ryan Byer	Phone:	(512) 239-2571		

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: 02/25/2020 ADMINORDER 2019-1102-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failed to obtain a sanitary control easement that covers the land within 150 feet of the Facility's Well Nos. 1, 2, 3, and 4.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
Description: Failed to use an approved chemical or media for the disinfection of potable water that conforms to the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 for Drinking Water Chemicals. Specifically, the Respondent was using Valu Time Bleach for disinfection, which does not conform to ANSI/NSF Standard 60.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
Description: Failed to provide the ground storage tank with a liquid level indicator. Specifically, the liquid level indicator was broken and the mercury switch indicator in the pump house was inadequate.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the Facility had 139 connections requiring a well capacity of 83.4 gpm. However, only 70 gpm was provided, indicating a 16% deficiency.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper

enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted. Specifically, provisions for the plumbing ordinance did not contain a cross-control program or Customer Service Inspections and did not prohibit the use of pipes and pipe fittings that contain more than 0.25% lead or solders and flux that contain more than 0.2% lead.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failed to verify the accuracy of the manual disinfectant residual analyzers at least once every 90 days using chlorine solutions of known concentrations. Specifically, the accuracy of the Hach Pocket Chlorinator II was verified on January 10, 2018 and was not verified again until July 13, 2018, which is greater than 90 days. The July 13, 2018 verification was the last recorded verification.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	February 22, 2018	(1465566)
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E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF NEW HOME
RN101389146

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0744-MLM-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 City of New Home (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 11. 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 106 East Broadway in New Home, Lynn County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 168 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). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE ch. 11.021 and 30 TEX. ADMIN. CODE § 297.1(51).
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 11.0842 and TEX. HEALTH & SAFETY CODE ch. 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 11.0842 and TEX. HEALTH & SAFETY CODE ch. 341.031 because it alleges violations of TEX. WATER CODE ch. 11, 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 \$8,998 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,199 of the penalty and \$1,799 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 milligrams per liter ("mg/L") of free chlorine throughout the distribution system by March 15, 2022; and
 - b. By completing Customer Service Inspection ("CSI") certificates for 212 North Main Street, 327 Hiracheta Drive, and 205 Stadium Drive by April 6, 2022.

II. ALLEGATIONS

During an investigation at the Facility conducted on March 14, 2022 through March 28, 2022, an investigator documented that the Respondent:

1. 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 March 14, 2022, free chlorine residual concentrations of 0.05 mg/L and 0.09 mg/L were measured at 401 Smith Street and 358 North Main Street, respectively.
2. Failed to seal the wellhead by a gasket or sealing compound and provide a well casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K). Specifically, Well No. 2 was not provided with a well casing vent.
3. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
4. Failed to have all backflow prevention assemblies ("BPAs") tested upon installation and on an annual basis by a recognized BPA tester and certified that they are operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4). Specifically, the BPAs for The Spot Market & Cafe at 102 North Main Street, 212 North Main Street, the northwest corner of Smith Avenue and East Broadway, and the irrigation systems at new home construction had not been tested.

5. Failed to maintain water works operation and maintenance records and make them immediately 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 were not maintained on-site for review and records of the amount of water treated and distributed each week were being recorded on a monthly basis and not weekly.
6. Failed to complete a CSI certificate prior to providing continuous service to new construction or any existing service when the water purveyor has reason to believe cross-connections or other potential contamination hazards exist, or after any material improvements, corrections, or additions to the private water distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(j). Specifically, CSIs had not been conducted at newly constructed homes at 327 Hiracheta Drive, 212 North Main Street, 205 Stadium Drive, and the northwest corner of East Broadway and Smith Avenue, and the remodeled cafe at 102 North Main Street.
7. Failed to inspect the Facility's ground storage tank ("GST") and standpipe annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
8. Failed to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days using chlorine solutions of known concentrations, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(C)(i).
9. 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). Specifically, the residual was only being checked at the City Hall.
10. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
11. Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B) and TEX. WATER CODE § 11.1272(c).

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: City of New Home, Docket No. 2022-0744-MLM-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Compile and maintain properly completed water works operation and maintenance records, including but not limited to records of the amount of each chemical used each week and records of the amount of water treated and distributed each week, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Implement a CSI program so that CSI certificates are completed prior to providing continuous water service to new construction, or any existing service when the water purveyor has reason to believe that cross-connections or other potential hazards exist, or after any material improvements, corrections, or additions to the private water distribution facilities, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iii. Conduct inspections of the Facility's GSTs and standpipes, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iv. Verify the accuracy of the manual disinfectant residual analyzer using chlorine solutions of known concentrations, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - v. Monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.v.
 - c. Within 60 days after the effective date of this Order:
 - i. Develop and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42;
 - ii. Ensure that all BPAs are tested upon installation and on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, including but not limited to The Spot Market & Cafe at 102 North Main Street, 212 North Main Street, the northwest corner of Smith Avenue and East Broadway, and the irrigation systems at new home construction, in accordance with 30 TEX. ADMIN. CODE § 290.44; and

- iii. Develop and maintain a chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in accordance with 30 TEX. ADMIN. CODE § 290.121.
- d. 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 Nos. 2.c.i through 2.c.iii.
- e. Within 90 days after the effective date of this Order:
 - i. Provide a well casing vent for Well No. 2 with an opening that is covered with 16-mesh or finer corrosion resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well, in accordance with 30 TEX. ADMIN. CODE § 290.41;
 - ii. Complete a CSI for all existing locations at which the water purveyor has reason to believe cross-connections or other potential contamination hazards exist, including but not limited to the northwest corner of East Broadway and Smith Avenue, and the remodeled cafe at 102 North Main Street, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Prepare and adopt a complete drought contingency plan, in accordance with of 30 TEX. ADMIN. CODE §§ 288.20 and 288.30.
- f. Within 105 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 Nos. 2.e.i through 2.e.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
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3426

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. If the Respondent fails to comply with Ordering Provision No. 2.e.iii in this Order within the prescribed schedule, and that failure to comply is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the 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.
7. 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

4/12/2023

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 OAG 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 OAG 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

3/22/2023

Date

BRAD FURRY

Name (Printed or typed)
Authorized Representative of
City of New Home

MAYOR

Title

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

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