

Executive Summary – Enforcement Matter – Case No. 62654

City of Carbon

RN101391985

Docket No. 2022-0893-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Carbon PWS, 302 North Main Street, Carbon, Eastland 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: November 11, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,625

Total Paid to General Revenue: \$5,625

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 27, 2022 through July 15, 2022

Date(s) of NOE(s): July 15, 2022

Executive Summary – Enforcement Matter – Case No. 62654

City of Carbon

RN101391985

Docket No. 2022-0893-PWS-E

Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to comply with the MCL of 0.060 milligrams per liter for haloacetic acids based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented a corrective measure by complying with MCLs for total trihalomethanes and haloacetic acids by August 25, 2022.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ashley Lemke, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1118; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Corey Hull, Mayor, City of Carbon, P.O. Box 414, Carbon, Texas 76435

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Jul-2022	Screening	20-Jul-2022	EPA Due	30-Jun-2022
	PCW	22-Jul-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Carbon
Reg. Ent. Ref. No.	RN101391985
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62654	No. of Violations	2
Docket No.	2022-0893-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ashley Lemke
		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	\$3,750
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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	60.0% Adjustment	Subtotals 2, 3, & 7	\$2,250
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Notes: Enhancement for three NOVs with same/similar violations, one agreed order containing a denial of liability, and one agreed order without 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	-\$375
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$227
 Estimated Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,625
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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: [Empty box]

Final Penalty Amount	\$5,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,625
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,625
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Screening Date 20-Jul-2022

Docket No. 2022-0893-PWS-E

PCW

Respondent City of Carbon

Policy Revision 5 (January 28, 2021)

Case ID No. 62654

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101391985

Media Public Water Supply

Enf. Coordinator Ashley Lemke

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>)	3	15%
	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	1	25%
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) 60%

>> 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 three NOVs with same/similar violations, one agreed order containing a denial of liability, and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 60%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 60%

Screening Date	20-Jul-2022	Docket No.	2022-0893-PWS-E	PCW
Respondent	City of Carbon			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62654			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101391985			
Media	Public Water Supply			
Enf. Coordinator	Ashley Lemke			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	Percent <input type="text" value="25.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input checked="" type="text" value="x"/>
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 City of Carbon
Case ID No. 62654
Reg. Ent. Reference No. RN101391985
Media Violation No. Public Water Supply
 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)	\$5,000	31-Dec-2021	25-Aug-2022	0.65	\$11	\$216	\$227
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 investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM and Haloacetic Acids ("HAA5"), calculated from the last day of the first quarter of noncompliance 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 \$5,000

TOTAL \$227

Screening Date 20-Jul-2022 **Docket No.** 2022-0893-PWS-E **PCW**
Respondent City of Carbon *Policy Revision 5 (January 28, 2021)*
Case ID No. 62654 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101391985
Media Public Water Supply
Enf. Coordinator Ashley Lemke

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to comply with the MCL of 0.060 mg/L for HAA5 based on the locational running annual average. Specifically, the locational running annual average concentrations of HAA5 for DBP2 at Site 2 were 0.061 mg/L for the fourth quarter of 2021, 0.064 mg/L for the first quarter of 2022, and 0.065 mg/L for the second quarter of 2022.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Exceeding the MCL for HAA5 caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels that are protective of human health.

Adjustment \$3,750

\$1,250

Violation Events

Number of Violation Events 1 272 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,250

One annual event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$125

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

Notes The Respondent achieved compliance on August 25, 2022.

Violation Subtotal \$1,125

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent City of Carbon
Case ID No. 62654
Reg. Ent. Reference No. RN101391985
Media Violation No. Public Water Supply
 2

Percent Interest	Years of Depreciation
5.0	15

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

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

Notes for DELAYED costs
 The delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for HAA5 and is assessed in the Economic Benefit Worksheet for Violation No. 1.

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

TOTAL



Compliance History Report

Compliance History Report for CN600660070, RN101391985, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN600660070, City of Carbon	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN101391985, CITY OF CARBON	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	302 North Main Street in Carbon, Eastland County, Texas				
TCEQ Region:	REGION 03 - ABILENE				
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0670015				
Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	July 22, 2022				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	July 22, 2017 to July 22, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Ashley Lemke			Phone:	(512) 239-1118

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:

- Effective Date: 10/10/2017 ADMINORDER 2016-2011-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM/HAA5 LRAA MCL 1Q2016 - During the first quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.087 mg/L at 14725 Hwy 6, Carbon (DBP2-02) and violated the maximum contaminant level for haloacetic acids with a LRAA of 0.072 mg/L at 14725 Hwy 6, Carbon (DBP2-02).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM/HAA5 LRAA MCL 2Q2016 - During the second quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 14725 Hwy 6, Carbon (DBP2-02) and violated the maximum contaminant level for haloacetic acids with a LRAA of 0.071 mg/L at 14725 Hwy 6, Carbon (DBP2-02).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM/HAA5 LRAA MCL 3Q2016 - During the third quarter of 2016 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.113 mg/L at 14725 Hwy 6, Carbon (DBP2-02) and violated the maximum contaminant level for haloacetic acids with a LRAA of 0.080 mg/L at 14725 Hwy 6, Carbon (DBP2-02).
- Effective Date: 06/26/2018 ADMINORDER 2018-0051-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(z)
Description: Failure to have a Nitrification Action Plan.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
5A THSC Chapter 341, SubChapter A 341.033(a)

Description: Failure to use a licensed operator to perform regulated activities for the City of Carbon Public Water Supply System.

Classification: Moderate

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

Description: Failure to calibrate the Facility's benchtop pH meters daily.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)

Description: Failure to provide a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage which is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure to ensure that the Facility's GST hatch remains locked except during inspections and maintenance.

Classification: Moderate

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

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

Classification: Moderate

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

Description: Failure to 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.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to inspect the interior surface of the Facility's two pressure tanks, that are equipped with an inspection port once every five years.

Classification: Moderate

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

Description: Failed to verify the accuracy of the analyzers used to determine the effectiveness of chloramination at least every 90 days.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	July 08, 2019	(1569789)
Item 2	March 05, 2020	(1631743)

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

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

- | | | | | | |
|---|--------------|---|-----------|-----------------|----------|
| 1 | Date: | 12/15/2021 | (1826850) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | | | |
| | Description: | HAA5 LRAA MCL 4Q2021 - During the 4th quarter of 2021 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.061 mg/L at 14725 HWY 6, Carbon (DBP2-02). ETT Point Value = 5 | | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | | | |
| | Description: | TTHM LRAA MCL 4Q2021 - During the 4th quarter of 2021 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.100 mg/L at 14725 HWY 6, Carbon (DBP2-02); and with a LRAA of 0.085 mg/L at 302 N Main, Carbon (DBP2-01). ETT Point Value = 0, grouped with tracking no 817180 | | | |
| 2 | Date: | 04/12/2022 | (1826850) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.115(f)(1) | | | |

Description: HAA5 LRAA MCL 1Q2022 - During the 1st quarter of 2022 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.064 mg/L at 14725 HWY 6, Carbon (DBP2-02). ETT Point Value = 5

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 1Q2022 - During the 1st quarter of 2022 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.104 mg/L at 14725 HWY 6, Carbon (DBP2-02); and with a LRAA of 0.093 mg/L at 302 N Main, Carbon (DBP2-01). ETT Point Value = 0, grouped with tracking no 817716

3 Date: 06/22/2022 (1826850)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: HAA5 LRAA MCL 2Q2022 - During the 2nd quarter of 2022 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.065 mg/L at 14725 HWY 6, Carbon (DBP2-02). ETT Point Value = 5

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 2Q2022 - During the 2nd quarter of 2022 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.107 mg/L at 14725 HWY 6, Carbon (DBP2-02); and with a LRAA of 0.093 mg/L at 302 N Main, Carbon (DBP2-01). ETT Point Value = 0, grouped with tracking no 817171

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 CARBON
RN101391985

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0893-PWS-E

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 Carbon (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 presented this Order to the Commission.

The Respondent understands that the City of Carbon has procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 302 North Main Street in Carbon, Eastland County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 315 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review for the Facility conducted on June 27, 2022 through July 15, 2022, an investigator documented that:
 - a. The locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts ("DBP2") at Site 1 were 0.085 milligrams per liter ("mg/L") for the fourth quarter of 2021, 0.093 mg/L for the first quarter of 2022, and 0.093 mg/L for the second quarter of 2022 and at Site 2 were 0.100 mg/L for the fourth quarter of 2021, 0.104 mg/L for the first quarter of 2022, and 0.107 mg/L for the second quarter of 2022; and
 - b. The locational running annual average concentrations of haloacetic acids ("HAA5") for DBP2 at Site 2 were 0.061 mg/L for the fourth quarter of 2021,

0.064 mg/L for the first quarter of 2022 and 0.065 mg/L for the second quarter of 2022.

3. The Executive Director recognizes that the Respondent implemented a corrective measure at the Facility by complying with maximum contaminant levels ("MCLs") for TTHM and HAA5 by August 25, 2022.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5 based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of \$5,625 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$5,625 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 5 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Carbon, Docket No. 2022-0893-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. All relief not expressly granted in this Order is denied.


3. 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.
4. 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.
5. 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 in this Order.
6. 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.
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

2/24/2023


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

10-6-22

Date

Corey Hull

Name (Printed or typed)
Authorized Representative of
City of Carbon

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.