

Executive Summary – Enforcement Matter – Case No. 62680
Texas Water Utilities, L.P.
RN101261667
Docket No. 2022-0920-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Beacon Bay Marina and RV Park, 144 Weavers Cove, Livingston, Polk 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: March 15, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,148

Amount Deferred for Expedited Settlement: \$2,629

Total Paid to General Revenue: \$10,519

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 23, 2022

Date(s) of NOE(s): July 22, 2022

Violation Information

1. Failed to obtain a sanitary control easement covering land within 150 feet of the Facility's well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].

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Texas Water Utilities, L.P.
RN101261667
Docket No. 2022-0920-PWS-E

2. Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection. Specifically, the Facility had 46 connections requiring a well capacity of 69 gpm. However, only 20 gpm of well capacity were provided, indicating a 71% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

3. Failed to provide a pressure tank capacity of 50 gallons per connection. Specifically, the Facility had 46 connections requiring a pressure tank capacity of 2,300 gallons. However, only 1,116 gallons of pressure tank capacity were provided, indicating a 51% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

4. Failed to maintain a thorough and up-to-date plant operations manual. Specifically, the Facility's plant operations manual did not include protocols to be used in the event of a natural or man-made catastrophe [30 TEX. ADMIN. CODE § 290.42(l)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 25, 2022, the Respondent updated the plant operations manual to include protocols to be used in the event of a natural or man-made catastrophe at the Facility.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 90 days, obtain a sanitary control easement that covers the land within 150 feet of the Facility's well or obtain Commission approval of an exception to the easement requirement.
- b. Within 105 days, submit written certification to demonstrate compliance with a.
- c. Within 180 days:
 - i. Provide a well capacity of at least 1.5 gpm per connection; and
 - ii. Provide a pressure tank capacity of at least 50 gallons per connection.
- d. Within 195 days, submit written certification to demonstrate compliance with c.

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Texas Water Utilities, L.P.
RN101261667
Docket No. 2022-0920-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Nick Lohret-Froio, Enforcement Division,
Enforcement Team 5, MC 219, (512) 239-4495; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Jeffrey McIntyre, President, Texas Water Services Group, LLC, General
Partner, Texas Water Utilities, L.P., 12535 Reed Road, Sugar Land, Texas 77478

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	25-Jul-2022			
	PCW	28-Jul-2022	Screening	27-Jul-2022	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Texas Water Utilities, L.P.				
Reg. Ent. Ref. No.	RN101261667				
Facility/Site Region	10-Beaumont	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	62680	No. of Violations	4		
Docket No.	2022-0920-PWS-E	Order Type	1660		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Nick Lohret-Froio		
		EC's Team	Enforcement Team 5		
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$5,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,400
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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	40.0%	Adjustment	Subtotals 2, 3, & 7	\$3,760
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Notes: Enhancement for two agreed orders 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	-\$12
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,021
 Estimated Cost of Compliance: \$7,070
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,148
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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	\$13,148
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,148
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,629
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$10,519
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Screening Date 27-Jul-2022

Docket No. 2022-0920-PWS-E

PCW

Respondent Texas Water Utilities, L.P.

Policy Revision 5 (January 28, 2021)

Case ID No. 62680

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101261667

Media Public Water Supply

Enf. Coordinator Nick Lohret-Froio

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>)	2	40%
	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) 40%

>> Repeat Violator (Subtotal 3)

No

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 two agreed orders containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date 27-Jul-2022 **Docket No.** 2022-0920-PWS-E **PCW**
Respondent Texas Water Utilities, L.P. *Policy Revision 5 (January 28, 2021)*
Case ID No. 62680 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101261667
Media Public Water Supply
Enf. Coordinator Nick Lohret-Froio

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="7.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> 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 type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input 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 Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
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)	\$25	23-May-2022	4-Jun-2024	2.04	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to obtain and record a sanitary control easement for the Facility's well (\$25 per well), or obtain an exception to the requirement, 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

\$25

TOTAL

\$3

Screening Date 27-Jul-2022
Respondent Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
Media Public Water Supply
Enf. Coordinator Nick Lohret-Froio

Docket No. 2022-0920-PWS-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(A)(i) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection. Specifically, the Facility had 46 connections requiring a well capacity of 69 gpm. However, only 20 gpm of well capacity were provided, indicating a 71% deficiency.

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="30.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<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 Failure to provide adequate well capacity could expose persons served by the Facility to contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended, calculated from the May 23, 2022 investigation date to the July 27, 2022 screening date.

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 type="text" value="x"/>	<input type="text"/>

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

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 Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$5,000	23-May-2022	19-Jun-2024	2.08	\$35	\$692	\$727
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide a well capacity of at least 1.5 gpm per connection, 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

\$5,000

TOTAL

\$727

Screening Date 27-Jul-2022
Respondent Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
Media Public Water Supply
Enf. Coordinator Nick Lohret-Froio

Docket No. 2022-0920-PWS-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(A)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a pressure tank capacity of 50 gallons per connection. Specifically, the Facility had 46 connections requiring a pressure tank capacity of 2,300 gallons. However, only 1,116 gallons of pressure tank capacity were provided, indicating a 51% deficiency.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

Failure to provide adequate pressure tank capacity could expose persons served by the Facility to contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended, calculated from the May 23, 2022 investigation date to the July 27, 2022 screening date.

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 type="text" value="x"/>	<input type="text"/>

Notes

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

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 Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
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	\$2,000	23-May-2022	19-Jun-2024	2.08	\$14	\$277	\$291
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 pressure tank capacity of at least 2,300 gallons, 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

\$2,000

TOTAL

\$291

Screening Date 27-Jul-2022
Respondent Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
Media Public Water Supply
Enf. Coordinator Nick Lohret-Froio

Docket No. 2022-0920-PWS-E

PCW

Policy Revision 5 (January 28, 2021)
PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>

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 type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
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 Texas Water Utilities, L.P.
Case ID No. 62680
Reg. Ent. Reference No. RN101261667
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$45	23-May-2022	25-May-2022	0.01	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to maintain a thorough and up-to-date plant operations manual, 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

\$45

TOTAL

\$0



Compliance History Report

Compliance History Report for CN602740706, RN101261667, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN602740706, Texas Water Utilities, L.P. **Classification:** SATISFACTORY **Rating:** 2.90

Regulated Entity: RN101261667, BEACON BAY MARINA AND RV PARK **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 144 WEAVERS COVE NEAR LIVINGSTON, POLK COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1870016

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 88631

WATER QUALITY NON PERMITTED ID NUMBER
10101261167

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: December 07, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 07, 2018 to December 07, 2023

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

Name: Nick Lohret-Froio

Phone: (512) 239-4495

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? YES
- 3) Who is the current owner/operator? BEACON BAY MARINA, LLC OWNER OPERATOR since 10/27/2016
GOINS, SHANNON LYNN OWNER since 9/20/2018
Texas Water Utilities, L.P. OWNER since 12/3/2021
- 4) Who was/were the prior owner(s)/operator(s)? Goins Utility Service LLC, OWNER, 6/30/2016 to 9/28/2018

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

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

- 1 Effective Date: 02/02/2021 ADMINORDER 2020-0624-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
Description: Failure to keep on file copies of well completion data as defined in 30 Tex. Admin. Code § 290.41(c)(3)(A) for as long as the well remains in service.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(p)(2)
Description: Failure to provide the Executive Director with a list of all the operators and operating companies that the public water system uses on an annual basis.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to obtain a sanitary control easement that covers the land within 150 feet of the Facility's well
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

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

Classification: Minor

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

Description: Failure to provide an accurate and up-to-date map of the distribution system so that valves and mains can easily be located during emergencies. Specifically, the distribution system map did not include waterline sizes and the flush valves were not labeled.

Classification: Minor

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

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

Description: Failure to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, copies of the disinfectant residual monitoring results from the distribution system were not available

Classification: Minor

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

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)

Description: Failure to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, copies of the amount of each chemical used each week were not available.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)

Description: Failure to provide a well casing a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface. Specifically, the well casing was approximately 4 inches above the concrete flooring of the well house.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(6)

Description: Failure to provide sampling taps for raw water, treated water, and at a point representing water entering the distribution system at every entry point. Specifically, the Facility was not equipped with a raw water sampling tap.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failure to house the hypochlorination solution containers and pumps in a secure enclosure to protect them from adverse weather conditions and vandalism with the solution container top completely covered to prevent the entrance of dust, insects, and other contaminants. Specifically, the hypochlorination solution container had an opening at the top of the barrel which was not protected from the entrance of dust, insects or other contaminants.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide a device to readily determine air-water-volume for all pressure tanks greater than 1,000 gallons in capacity. Specifically, the 1,116-gallon pressure tank was not equipped with an air-water-volume indicator.

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a well capacity of 1.5 gallons per minute ("gpm") per connection. Specifically, the Facility had 30 connections, requiring a well capacity of 45 gpm. However, only 22 gpm were provided, indicating a 51% deficiency.

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a pressure tank capacity of 50 gallons per connection. Specifically, the Facility had 30 connections, requiring a pressure tank capacity of 1,500 gallons. However, only 1,116 gallons were provided, indicating a 26% deficiency.

Classification: Minor

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

Description: Failure to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connection nor other unacceptable plumbing practices are permitted.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)

Description: Failed to ensure that all chemicals used in treatment of water supplied by public water systems conform to American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") Standard 60 for Drinking Water Treatment Chemicals. Specifically, the system was unable to verify that the sodium hypochlorite solution in use conforms to ANSI/NSF Standard 60.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702

30 TAC Chapter 290, SubChapter D 290.51(a)(6)

Description: Failure to pay annual Public Health Service fees and any associated late fees for TCEQ Financial Administration Account No. 91870016 for Fiscal Year 2019.

2 Effective Date: 11/16/2021 ADMINORDER 2020-1492-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC MR 3Q2019 - The system failed to monitor and/or report synthetic organic contaminants levels to the TCEQ for the quarterly monitoring period from 07/01/2019 to 09/30/2019 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC MR 2Q2019 - The system failed to monitor and/or report synthetic organic contaminants levels to the TCEQ for the quarterly monitoring period from 04/01/2019 to 06/30/2019 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: VOC MR 3Q2019 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the quarterly monitoring period from 07/01/2019 to 09/30/2019 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: VOC MR 2Q2019 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the quarterly monitoring period from 04/01/2019 to 06/30/2019 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(e)(2)

30 TAC Chapter 290, SubChapter F 290.117(h)

30 TAC Chapter 290, SubChapter F 290.117(i)(3)

Description: LCR WQP MR Reduced 2019 - The system failed to monitor for water quality parameters in accordance with TCEQ rules two times during the Reduced 2019 monitoring period at entry point location 144 Weavers Cove, Livingston PBCU001 and the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(i)(6)

30 TAC Chapter 290, SubChapter F 290.117(j)

Description: LCR LCN 1st 6M2020- The system failed to provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that were tested during the six-month monitoring period from 01/01/2020 to 06/30/2020.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(i)(6)

30 TAC Chapter 290, SubChapter F 290.117(j)

Description: LCR LCN 2nd 6M2019- The system failed to provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that were tested during the six-month monitoring period from 07/01/2019 to 12/31/2019.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)

30 TAC Chapter 290, SubChapter H 290.274(a)

30 TAC Chapter 290, SubChapter H 290.274(c)

Description: CCR 2019 - The system failed to provide the Consumer Confidence Report (CCR) for 2019 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: ASB MR PN YR2018 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for an asbestos monitoring and reporting violation for the annual monitoring period from 01/01/2018 to 12/31/2018.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: LCR IN MR PN 1st 6M2019 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a distribution initial lead and copper monitoring and reporting violation for the six-month monitoring period from 01/01/2019 to 06/30/2019.

Classification: Moderate

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

Description: DBP2 MR YR2019 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the annual monitoring period from 01/01/2019 to 12/31/2019.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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
TEXAS WATER UTILITIES, L.P.
RN101261667

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0920-PWS-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Water Utilities, L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 144 Weavers Cove near Livingston, Polk County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 46 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$13,148 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,519 of the penalty and \$2,629 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 by May 25, 2022, the Respondent updated the plant operations manual to include protocols to be used in the event of a natural or man-made catastrophe at the Facility.

II. ALLEGATIONS

During an investigation at the Facility conducted on May 23, 2022, an investigator documented that the Respondent:

1. Failed to obtain a sanitary control easement covering land within 150 feet of the Facility's well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
2. Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 46 connections requiring a well capacity of 69 gpm. However, only 20 gpm of well capacity were provided, indicating a 71% deficiency.
3. Failed to provide a pressure tank capacity of 50 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility had 46 connections requiring a pressure tank capacity of 2,300 gallons. However, only 1,116 gallons of pressure tank capacity were provided, indicating a 51% deficiency.
4. Failed to maintain a thorough and up-to-date plant operations manual, in violation of 30 TEX. ADMIN. CODE § 290.42(l). Specifically, the Facility's plant operations manual did not include protocols to be used in the event of a natural or man-made catastrophe.

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: Texas Water Utilities, L.P., Docket No. 2022-0920-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective of this Order, obtain a sanitary control easement that covers the land within 150 feet of the Facility's well, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain Commission approval of an exception to the easement requirement pursuant to 30 TEX. ADMIN. CODE § 290.39(l). The exception request shall be submitted to:

Technical Review and Oversight Team
Water Supply Division, MC 159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 105 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 180 days after the effective date of this Order:
 - i. Provide a well capacity of at least 1.5 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide a pressure tank capacity of at least 50 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - d. Within 195 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i and 2.c.ii. The certification shall be signed by the Respondent and shall include the following certification language:

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

am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively,

the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

4/2/2024

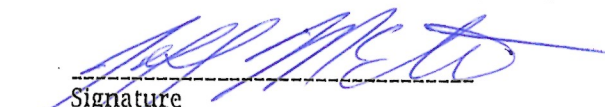
Date

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

Date

Jeffrey L. McIntyre

Name (Printed or typed)
Authorized Representative of
Texas Water Utilities, L.P.

February 2, 2024

President

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.