

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 63083
SAM RAYBURN WATER, INC.
RN101274165
Docket No. 2022-1351-UTL-E

Order Type:
Default Order

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Farm-to-Market Road 705, 9.5 miles south of Highway 83, near Pineland, San Augustine County (the “Utility”)

Type of Operation:
a water utility

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, 2022-1352-UTL-E
Past-Due Penalties: \$878.50
Past-Due Fees: None
Other: None
Interested Third Parties: None

Texas Register Publication Date: June 30, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$895

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$895

Compliance History Classifications:

Person/CN – UNCLASSIFIED
Site/RN – NOT APPLICABLE

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 9, 2022 through September 22, 2022

Date(s) of NOV(s): July 8, 2022

Date(s) of NOE(s): September 23, 2022

Violation Information

Failed to adopt and submit to TCEQ for approval an emergency preparedness plan (“EPP”) that demonstrates the Utility’s ability to provide emergency operations [TEX. WATER CODE § 13.1394(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 90 days develop and submit to TCEQ for approval an EPP that demonstrates the Utility’s ability to provide emergency operations. The EPP must demonstrate Respondent’s ability to provide emergency operations.

Respond to all requests for information about the submitted or forthcoming EPP.

2. Within 105 days submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 270 days obtain approval from TCEQ for EPP submitted pursuant to Technical Requirement No. 1.
4. Within 285 days submit written certification to demonstrate compliance with Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: February 9, 2023
Date(s) of Service: February 15, 2023
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Megan L. Grace, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, (361) 881-6991
TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838
Respondent Contact: Don H. Johnson, President, SAM RAYBURN WATER, INC., P.O. Box 449,
Huntington, Texas 75949
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	3-Oct-2022	Screening	5-Oct-2022	EPA Due	
	PCW	18-Nov-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	SAM RAYBURN WATER, INC.
Reg. Ent. Ref. No.	RN101274165
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	63083	No. of Violations	1
Docket No.	2022-1351-UTL-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$50	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	79.0% Adjustment	Subtotals 2, 3, & 7	\$395
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Notes: Enhancement for two NOVs with dissimilar violations and three agreed orders 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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$8
 Estimated Cost of Compliance: \$180
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$895
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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	\$895
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$895
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$895
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Screening Date 5-Oct-2022

Docket No. 2022-1351-UTL-E

PCW

Respondent SAM RAYBURN WATER, INC.

Policy Revision 5 (January 28, 2021)

Case ID No. 63083

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101274165

Media Public Water Supply

Enf. Coordinator Epifanio Villarreal

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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	3	75%
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) 79%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with dissimilar violations and three agreed orders without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 79%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 79%

Screening Date 5-Oct-2022
Respondent SAM RAYBURN WATER, INC.
Case ID No. 63083
Reg. Ent. Reference No. RN101274165
Media Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2022-1351-UTL-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number

Rule Cite(s)

Tex. Water Code § 13.1394(b)(2)

Violation Description

Failed to adopt and submit to the TCEQ for approval an emergency preparedness plan ("EPP") that demonstrates the Facility's ability to provide emergency operations.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirements were not met.

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 checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

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

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 SAM RAYBURN WATER, INC.
Case ID No. 63083
Reg. Ent. Reference No. RN101274165
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)	\$180	9-Sep-2022	31-Jul-2023	0.89	\$8	n/a	\$8

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and submit to the TCEQ for approval an EPP that demonstrates the Facility's ability to provide emergency operations, 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



Compliance History Report

Compliance History Report for CN600636112, RN101274165, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN600636112, SAM RAYBURN WATER, INC. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101274165, POWELL POINT WATER SYSTEM **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: ON FARM-TO-MARKET ROAD 705, 9.5 MILES SOUTH OF HIGHWAY 83 NEAR PINELAND, SAN AUGUSTINE COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2030023

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: October 05, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 05, 2017 to October 05, 2022

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

Name: EPIFANIO VILLARREAL

Phone: (361) 881-6991

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: 08/15/2018 ADMINORDER 2017-0307-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.115(e)

Description: DBP2 MR 2Q2016 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the quarterly monitoring period from 04/01/2016 to 06/30/2016.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.115(e)

Description: DBP2 MR 1Q2016 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the quarterly monitoring period from 01/01/2016 to 03/31/2016.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.115(e)

Description: DBP2 MR 4Q2015 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the quarterly monitoring period from 10/01/2015 to 12/31/2015.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.115(e)

Description: DBP2 MR 3Q2015 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the quarterly monitoring period from 07/01/2015 to 09/30/2015.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)

30 TAC Chapter 290, SubChapter F 290.115(e)

Description: DBP2 MR 2Q2015 - This system failed to monitor and/or report disinfectant byproduct levels in its distribution system to the TCEQ for the quarterly monitoring period from 04/01/2015 to 06/30/2015.

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 - 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 reduced monitoring period from 01/01/2015 to 12/31/2015.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(3)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)

Description: TTHM DBP2 MCL PN 2Q2016 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 violation of the maximum contaminant level for trihalomethanes during the 2nd quarter of 2016.

Classification: Moderate

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

Description: DBP2 MR PN 3Q2015 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 disinfectant byproducts monitoring and reporting violation for the quarterly monitoring period from 07/01/2015 to 09/30/2015.

Classification: Moderate

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

Description: DBP2 MR PN 2Q2015 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 disinfectant byproducts monitoring and reporting violation for the quarterly monitoring period from 04/01/2015 to 06/30/2015.

Classification: Moderate

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

Description: DBP2 MR PN 1Q2016 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 disinfectant byproducts monitoring and reporting violation for the quarterly monitoring period from 01/01/2016 to 03/31/2016.

Classification: Moderate

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

Description: DBP2 MR PN 2Q2016 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 disinfectant byproducts monitoring and reporting violation for the quarterly monitoring period from 04/01/2016 to 06/30/2016.

2 Effective Date: 08/16/2020 ADMINORDER 2019-1730-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: Ordering Provision Nos. 2.c.i and 2.d ORDER

Description: Failure to comply with the Maximum Contaminant Level (MCL) of 0.080 milligrams per liter (mg/L) for total trihalomethanes (TTHM), based on the locational running annual average (LRAA). Failure to comply with TCEQ Agreed Order Docket No. 2016-0007-PWS-E.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM LRAA MCL 2Q2019 - During the 2nd quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.161 mg/L at Power PT Lot 3, Broaddus (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM LRAA MCL 1Q2019 - During the 1st quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.115 mg/L at Power PT Lot 3, Broaddus (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: TTHM LRAA MCL 4Q2018 - During the 4th quarter of 2018 the system violated the maximum contaminant

level for trihalomethanes with a LRAA of 0.090 mg/L at Power PT Lot 3, Broaddus (DBP2-01).

- 3 Effective Date: 09/29/2021 ADMINORDER 2020-1320-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: HAA5 LRAA MCL 2Q2020 - During the 2nd quarter of 2020 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.063 mg/L at Power PT Lot 3, Broaddus (DBP2-01).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: HAA5 LRAA MCL 1Q2020 - During the 1st quarter of 2020 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.068 mg/L at Power PT Lot 3, Broaddus (DBP2-01).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: HAA5 LRAA MCL 4Q2019 - During the 4th quarter of 2019 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.063 mg/L at Power PT Lot 3, Broaddus (DBP2-01).

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.

- 1 Date: 02/23/2022 (1810552)
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 0.193 mg/L at Power PT Lot 3, Broaddus (DBP2-01). ETT Point Value = 5
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 Power PT Lot 3, Broaddus (DBP2-01). ETT Point Value = 0 and grouped with tracking number 808951.
- 2 Date: 06/20/2022 (1812078)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the 21,000 gallon ground storage tank roof vent.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
Description: Failure to install a roof hatch that is at least 24 inches in diameter on the 42,000 gallon ground storage tank.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to maintain copies of the recorded map and deed or sanitary control easement(s) for Well Number 1.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)
Description: Failure by Powell Point Water System to maintain a full Self Contained Breathing Apparatus (SCBA) where gas chlorine is used.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure by Sam Rayburn Water Inc - Powell Point WS to maintain plant equipment in good working condition and appearance.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure by Sam Rayburn Water Inc - Powell Point WS to maintain the grounds and facilities in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to maintain a complete plant operations manual.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to maintain a complete record of the disinfectant residual monitoring from the distribution system.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to maintain a complete monitoring plan.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to maintain plant equipment in a good working condition or appearance.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to securely install all water system electrical wiring in compliance with a local or national electrical code.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to provide certification of all chemicals showing that they conform to American National Standards Institute/NSF International (ANSI/NSF) Standard 60 for Drinking Water Treatment Chemicals.

Self Report? NO Classification: Minor

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

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to have copies of operational records available to the executive director upon request.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.119(b)(7)

Description: Failure by Sam Rayburn Water Inc - Powell Point Water System to follow the acceptable analytical methods for disinfectant analysis other than ozone.

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
SAM RAYBURN WATER, INC.;
RN101274165**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2022-1351-UTL-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 13 and HEALTH & SAFETY CODE ch. 341, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is SAM RAYBURN WATER, INC. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and/or operates, for compensation, a water utility located on Farm-to-Market Road 705, 9.5 miles South of Highway 83 near Pineland, San Augustine County, Texas (the "Utility"). The Utility is a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer and is not in a county with a population of 3.3 million or more or in a county with a population of 550,000 or more adjacent to a county with a population of 3.3 million or more.
2. During a record review conducted on and around September 9, 2022, through September 22, 2022, an investigator documented that Respondent failed to adopt and submit to TCEQ for approval an emergency preparedness plan ("EPP") that demonstrates the Utility's ability to provide emergency operations.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SAM RAYBURN WATER, INC." (the "EDPRP") in the TCEQ Chief Clerk's office on February 9, 2023.
4. By letter dated February 9, 2023, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on February 15, 2023, as evidenced by the signature on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341.
2. As evidenced by Finding of Fact No. 2, Respondent failed to adopt and submit to TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations, in violation of TEX. WATER CODE § 13.1394(b)(2).

3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 13.4151 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of eight hundred ninety-five dollars (\$895.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 13.4151(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of eight hundred ninety-five dollars (\$895.00) for violations of state statutes. The payment of this penalty and 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 not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: SAM RAYBURN WATER, INC.; Docket No. 2022-1351-UTL-E" to:
 - Financial Administration Division
 - Revenue Operations Section
 - Texas Commission on Environmental Quality
 - Attention: Cashier's Office, MC 214
 - P.O. Box 13088
 - Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Order, develop and submit to TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations, in accordance with TEX. WATER CODE § 13.1394(b)(2). The EPP must demonstrate Respondent's ability to provide emergency operations, as described by TEX. WATER CODE § 13.1394(b)(1), and shall be submitted to:

Emergency Response and Preparedness Section, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

Respondent shall respond completely and adequately, as determined by TCEQ, within 10 days or by any other deadline specified in writing, to all requests for information about the submitted or forthcoming EPP.

- b. Within 105 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.e., to demonstrate compliance with Ordering Provision No. 3.a.
- c. Within 270 days after the effective date of this Order, obtain approval from TCEQ for the EPP submitted pursuant to Ordering Provision No. 3.a., in accordance with TEX. WATER CODE § 13.1394(b)(2).
- d. Within 285 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.e., to demonstrate compliance with Ordering Provision No. 3.c.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records, shall be signed by 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 fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Drinking Water Special Functions Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent. 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.
- 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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.
- 7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction

that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MEGAN L. GRACE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SAM RAYBURN WATER, INC.' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 9, 2023.

The EDPRP was mailed to Respondent's last known address on February 9, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt 'green card,' Respondent received notice of the EDPRP on February 15, 2023, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Megan L. Grace, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 8th day of June, 2023

A handwritten signature in black ink, appearing to read "Megan L. Grace".

Declarant