

Executive Summary – Enforcement Matter – Case No. 63168

City of Primera

RN101389617

Docket No. 2022-1374-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three repeated enforcement actions (or two orders with nuisance violations) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Primera PWS, 22893 North Stuart Place Road, Primera, Cameron County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 18, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,263

Total Paid to General Revenue: \$3,263

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

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: July 27, 2022 through August 10, 2022

Date(s) of NOE(s): October 4, 2022

Executive Summary – Enforcement Matter – Case No. 63168

City of Primera

RN101389617

Docket No. 2022-1374-PWS-E

Violation Information

1. Failed to maintain a disinfectant residual of at least 0.5 milligrams per liter (“mg/L”) of chloramine (measured as total chlorine) throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to use a water works operator who holds an applicable valid license issued by the Executive Director [30 TEX. ADMIN. CODE § 290.46(e) and TEX. HEALTH & SAFETY CODE § 341.033(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On August 5, 2022, the Respondent maintained a disinfectant residual of at least 0.5 mg/L of chloramine (measured as total chlorine) throughout the distribution system.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, use a water works operator who holds an applicable, valid license issued by the Executive Director at the Facility; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ilia Perez-Ramirez, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3743; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Pat Patterson, Mayor, City of Primera, 22893 North Stuart Place Road, Harlingen, Texas 78552

Celina Gonzales, City Manager, City of Primera, 22893 North Stuart Place Road, Harlingen, Texas 78552

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 10-Oct-2022 | Screening | 11-Oct-2022 | EPA Due | |
| | PCW | 11-Oct-2022 | | | | |

| | |
|--|-----------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Primera |
| Reg. Ent. Ref. No. | RN101389617 |
| Facility/Site Region | 15-Harlingen |
| Major/Minor Source | Major |

| | | | |
|--|---------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 63168 | No. of Violations | 2 |
| Docket No. | 2022-1374-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Dalton Wallace |
| | | 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 | \$3,750 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | |
|---------------------------|-------|------------|--------------------------------|--------|
| Compliance History | -8.0% | Adjustment | Subtotals 2, 3, & 7 | -\$300 |
|---------------------------|-------|------------|--------------------------------|--------|

Notes: Enhancement for one NOV with dissimilar violations. Reduction for the High Performer classification.

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

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|--------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | -\$187 |
|--|-------------------|--------|

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

Total EB Amounts: \$15
 Estimated Cost of Compliance: \$300
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$3,263 |
|-----------------------------|-----------------------|---------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$3,263 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$3,263 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|------|-----------|------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|-----------|------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$3,263 |
|------------------------|---------|

Screening Date 11-Oct-2022

Docket No. 2022-1374-PWS-E

PCW

Respondent City of Primera

Policy Revision 5 (January 28, 2021)

Case ID No. 63168

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101389617

Media Public Water Supply

Enf. Coordinator Dalton Wallace

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 | 1 | 2% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>) | 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) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations. Reduction for the High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -8%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -8%

Screening Date 11-Oct-2022

Docket No. 2022-1374-PWS-E

PCW

Respondent City of Primera

Policy Revision 5 (January 28, 2021)

Case ID No. 63168

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101389617

Media Public Water Supply

Enf. Coordinator Dalton Wallace

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(B) and 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to maintain a disinfectant residual of at least 0.5 milligram per liter ("mg/L") of chloramine (measured as total chlorine) throughout the distribution system at all times. Specifically, on July 27, 2022, a total chlorine concentration of 0.02 mg/L was measured at East Rio Rancho Road (also known as Sample Site No. 10J and 17248 Rio Rancho Road).

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 15.0% |
| | Potential | | x | | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | | | | 0.0% |

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

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1 Number of violation days 9

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$750

One quarterly event is recommended, calculated from the date of the investigation, July 27, 2022, to the date of compliance, August 5, 2022.

Good Faith Efforts to Comply

25.0%

Reduction \$187

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

| | | |
|---------------|---|--|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | |

Notes The Respondent achieved compliance on August 5, 2022.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$503

This violation Final Assessed Penalty (adjusted for limits) \$503

Economic Benefit Worksheet

Respondent City of Primera
Case ID No. 63168
Reg. Ent. Reference No. RN101389617
Media Public Water Supply
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 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) | \$200 | 27-Jul-2022 | 5-Aug-2022 | 0.02 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to determine the cause of non-compliance, make any necessary repairs or adjustments to the Facility, and maintain a disinfectant residual of at least 0.5 mg/L free chloramine (measured as total chlorine) throughout the distribution system, calculated from the date of the investigation to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$0

Screening Date 11-Oct-2022 **Docket No.** 2022-1374-PWS-E **PCW**
Respondent City of Primera *Policy Revision 5 (January 28, 2021)*
Case ID No. 63168 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101389617
Media Public Water Supply
Enf. Coordinator Dalton Wallace

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="15.0%"/> |
| | Potential | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | |

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

| | Before NOE/NOV | NOE/NOV to EDRP/Settlement Offer |
|---------------|---|----------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="text" value="x"/> | <input type="text"/> |

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Primera
Case ID No. 63168
Reg. Ent. Reference No. RN101389617
Media Public Water Supply
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/Construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$100 | 26-Oct-2021 | 1-Oct-2024 | 2.93 | \$15 | n/a | \$15 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to use a water works operator who holds an applicable, valid license issued by the Executive Director, calculated from the earliest documented violation date to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$15



Compliance History Report

Compliance History Report for CN600656136, RN101389617, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

| | | | | | |
|---|---|-------------------------|--------------|----------------|-------|
| Customer, Respondent, or Owner/Operator: | CN600656136, City of Primera | Classification: | HIGH | Rating: | 0.00 |
| Regulated Entity: | RN101389617, CITY OF PRIMERA | Classification: | UNCLASSIFIED | Rating: | ----- |
| Complexity Points: | 0 | Repeat Violator: | NO | | |
| CH Group: | 14 - Other | | | | |
| Location: | 22893 NORTH STUART PLACE ROAD IN PRIMERA, CAMERON COUNTY, TEXAS | | | | |
| TCEQ Region: | REGION 15 - HARLINGEN | | | | |
| ID Number(s): | PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0310094 | | | | |

| | | | | | |
|---|---------------------------------------|---------------------|------|---------------------|----------------|
| Compliance History Period: | September 01, 2018 to August 31, 2023 | Rating Year: | 2023 | Rating Date: | 09/01/2023 |
| Date Compliance History Report Prepared: | June 26, 2024 | | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | | |
| Component Period Selected: | June 26, 2019 to June 26, 2024 | | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History. | | | | | |
| Name: | Dalton Wallace | | | Phone: | (512) 239-6704 |

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:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

| | | | | | |
|---|--------------|--|-----------|-----------------|-------|
| 1 | Date: | 08/25/2023 | (1922642) | | |
| | Self Report? | NO | | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.42(I) | | | |
| | Description: | Failure to compile and keep up-to-date a thorough plant operations manual. | | | |
| | Self Report? | NO | | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(H) | | | |
| | Description: | Failure to provide emergency power for systems which service more than 250 | | | |

| | | | |
|--------------|---|-----------------|-------|
| | connections and do not meet elevated storage requirement. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(l) | | |
| Description: | Failure to flush all dead-end mains on a monthly basis. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.121 | | |
| Description: | Failure to maintain a Chemical and Bacteriological Monitoring Plan. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C) | | |
| Description: | Failure to verify at least once every ninety days Chlorine Analyzers with primary standard. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(D) | | |
| Description: | Failure to verify at least once every ninety days Chloramination Analyzers with primary standard. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(j) | | |
| Description: | Failure to conduct Customer Service Inspections (CSI's) on Form TCEQ-20699. | | |

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 6/26/2019 and 6/26/2024

- 1 Date: 11/22/2019 (1599381)
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.46(l)
Description: Failure to flush all dead-end mains at monthly intervals.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.46(z)
Description: Failure to implement the nitrification action plan.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to compile and keep up-to-date a thorough plant operations manual.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.45(b)(2)(H)
Description: Failure to provide emergency power for systems which service more than 250 connections and do not meet elevated storage requirement.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
Description: Failure to continuously maintain a disinfectant residual throughout the distribution system.
- 2 Date: 02/10/2021 (1663353)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
30 TAC Chapter 290, SubChapter D 290.46(l)
Description: Failure to flush all dead ends as required.
The distribution map indicates that there are nine dead-end locations. According to records provided by the entity, the City of Primera only flushed three sites in May 2020.
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter D 290.46(d)(2)
Description: Failure to continuously maintain a disinfectant residual throughout the distribution system.
Specifically, during the July 15, 2020 complaint investigation, a water sample collected on the 16000 block of Primera Road, Primera TX was observed to have a chloramine disinfectant residual (measured as total chlorine) of less than the required 0.5 mg/l. The measured concentration was 0.08 mg/l obtained by TCEQ using a Hach Pocket Colorimeter II at 11:01 hours.
- 3 Date: 02/12/2021 (1677656)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter D 290.46(d)(2)
Description: Failure to maintain a minimum chloramines residual disinfectant concentration of at least 0.5 mg/L (measured as total chlorine) within the distribution system. Specifically, chloramine disinfectant residuals of 0.13 mg/L, 0.17 mg/L, and 0.09 mg/L were documented on October 22, 2020.
- 4* Date: 08/25/2023 (1922642)
Self Report? NO Classification: Minor
Citation:

Compliance History Report for CN600656136, RN101389617, Rating Year 2023 which includes Compliance History (CH) components from June 26, 2019, through June 26, 2024.

Description: 30 TAC Chapter 290, SubChapter D 290.42(l)
Failure to compile and keep up-to-date a thorough plant operations manual.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(H)
Description: Failure to provide emergency power for systems which service more than 250 connections and do not meet elevated storage requirement.

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.46(l)
Failure to flush all dead-end mains on a monthly basis.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121

Description: Failure to maintain a Chemical and Bacteriological Monitoring Plan.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)
Description: Failure to verify at least once every ninety days Chlorine Analyzers with primary standard.

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(D)
Failure to verify at least once every ninety days Chloramination Analyzers with primary standard.

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.46(j)
Failure to conduct Customer Service Inspections (CSI's) on Form TCEQ-20699.

* NOVs applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

Appendix B

All Investigations Conducted During Component Period June 26, 2019 and June 26, 2024

| | | |
|--------|---------------------|-----------|
| Item 1 | November 22, 2019** | (1599381) |
| Item 2 | April 08, 2021** | (1702499) |
| Item 3 | October 04, 2022** | (1846958) |
| Item 4 | August 22, 2023** | (1922642) |

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PRIMERA
RN101389617

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2022-1374-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 Primera (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 it has certain 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 22893 North Stuart Place Road in Primera, Cameron County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1,475 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(73).
2. During an investigation at the Facility conducted on July 27, 2022 through August 10, 2022, an investigator documented that:
 - a. On July 27, 2022, a total chlorine concentration of 0.02 milligrams per liter ("mg/L") was measured at East Rio Rancho Road (also known as Sample Site No. 10J and 17248 Rio Rancho Road).
 - b. The Respondent allowed an unlicensed individual to collect distribution system residual samples.

3. The Executive Director recognizes that on August 5, 2022, the Respondent maintained a disinfectant residual of at least 0.5 mg/L of chloramine (measured as total chlorine) throughout the distribution system.

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 maintain a disinfectant residual of at least 0.5 mg/L of chloramine (measured as total chlorine) throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(B) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to use a water works operator who holds an applicable, valid license issued by the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.46(e) and TEX. HEALTH & SAFETY CODE § 341.033(a).
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 \$3,263 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 \$3,263 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 Primera, Docket No. 2022-1374-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 30 days after the effective date of this Order, use a water works operator who holds an applicable, valid license issued by the Executive Director at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

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. 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.
7. 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.
8. 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.
9. 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.
10. 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

11/4/2024

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

11/26/24

Date

Celina Gonzalez

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

City Manager

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.