

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-0658-PWS-E **TCEQ ID:** RN101439768 **CASE NO.:** 33285

**RESPONDENT NAME:** Emerald Valley Independent Aquatic Network, Ltd. Co.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> EVIAN, off Farm-To-Market Road 306 approximately 2 miles south east of Canyon Lake Dam on Chimney Rock Road, Comal County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on September 3, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Tel Croston, Enforcement Division, Enforcement Team 2, MC 169, (512) 5717; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Jess Mayfield, Manager, Emerald Valley Independent Aquatic Network, Ltd., Co., P.O. Box 201930, San Antonio, Texas 78220  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 23, 2007</p> <p><b>Date of NOE Relating to this Case:</b> April 6, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Three violations were documented.</p> <p><b>WATER</b></p> <p>1) Failure to provide a minimum well production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically a system with 189 connections is required to provide 113.4 gpm. At the time of the investigation the facility was providing 63 gpm, indicating a 44% deficiency [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i)].</p> <p>2) Failure to provide an operable flow measuring device on the discharge line of well No. 3 [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].</p> <p>3) Failure to install all electrical wiring in compliance with local or national electrical codes. Specifically, the electrical power supply to well Nos. 1 and 3 were not installed in securely mounted conduits [30 TEX. ADMIN. CODE § 290.46(v)].</p>	<p><b>Total Assessed:</b> \$364</p> <p><b>Total Deferred:</b> \$72  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$292</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, install all water system electrical wiring in compliance with a local or national electrical code;</p> <p>b. Within 60 days after the effective date of this Agreed Order, provide an operable flow measuring device on the well discharge line;</p> <p>c. Within 75 days after the effective date of this Agreed Order, provide the required well capacity of 0.6 gpm per connection; and</p> <p>d. Within 90 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned PCW</b>	9-Apr-2007	<b>Screening</b>	17-Apr-2007	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Emerald Valley Independent Aquatic Network, Ltd. Co.		
<b>Reg. Ent. Ref. No.</b>	RN101439768		
<b>Facility/Site Region</b>	13- San Antonio	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	33285	<b>Order Type</b>	3
<b>Docket No.</b>	2007-0658-PWS-E	<b>Enf. Coordinator</b>	Tel Croston
<b>Media Program(s)</b>	PWS	<b>EC's Team</b>	2
<b>Multi-Media</b>			
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$325
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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.

<b>Compliance History</b>	12% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$39
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**Notes**  
The respondent was issued two NOV's for the same or similar violations and one for an unrelated violation in the past five years.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

**Notes**  
The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	\$428	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$6,000	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$364
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**  
[Empty box]

<b>Final Penalty Amount</b>	\$364
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$364
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	-\$72
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**  
Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$292
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Screening Date 17-Apr-2007

Docket No. 2007-0658-PWS-E

PCW

Respondent Emerald Valley Independent Aquatic Network, Ltd. Co.

Policy Revision 2 (September 2002)

Case ID No. 33285

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101439768

Media [Statute] PWS

Enf. Coordinator Tel Croston

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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) 12%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The respondent was issued two NOVs for the same or similar violations and one for an unrelated violation in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 17-Apr-2007

Docket No. 2007-0658-PWS-E

PCW

Respondent Emerald Valley Independent Aquatic Network, Ltd. Co.

Policy Revision 2 (September 2002)

Case ID No. 33285

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101439768

Media [Statute] PWS

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="10%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events   Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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** Emerald Valley Independent Aquatic Network, Ltd. Co.  
**Case ID No.** 33285  
**Reg. Ent. Reference No.** RN101439768  
**Media** PWS  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	23-Feb-2007	1-Mar-2008	1.0	\$17	\$340	\$357
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to meet the Commission's minimum well capacity requirement of 0.6 gallons per minute ("gpm") per connection, calculated from the date of the investigation to the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$357

Screening Date 17-Apr-2007

Docket No. 2007-0658-PWS-E

PCW

Respondent Emerald Valley Independent Aquatic Network, Ltd. Co.

Policy Revision 2 (September 2002)

Case ID No. 33285

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101439768

Media [Statute] PWS

Enf. Coordinator Tel Croston

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"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<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%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events  Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

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:** Emerald Valley Independent Aquatic Network, Ltd. Co.  
**Case ID No:** 33285  
**Reg. Ent. Reference No:** RN101439768  
**Media:** PWS  
**Violation No:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment	\$500	23-Feb-2007	1-Jan-2008	1.0	\$2	\$34	\$36
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide an operable flow meter for the well. Date required is the date of the investigation and the final date is the projected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$36

Screening Date 17-Apr-2007

Docket No. 2007-0658-PWS-E

PCW

Respondent Emerald Valley Independent Aquatic Network, Ltd. Co.

Policy Revision 2 (September 2002)

Case ID No. 33285

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101439768

Media [Statute] PWS

Enf. Coordinator Tel Croston

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.46(v)

Violation Description

Failed to install all electrical wiring in compliance with local or national electrical codes. Specifically, the electrical power supply to well Nos. 1 and 3 were not installed in securely mounted conduits.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Improperly installed electrical wires may cause equipment to malfunction resulting in low pressure or outages which could result in exposure to significant amounts of pollutants which would exceed levels that are protective of human health.

Adjustment \$375

\$125

Violation Events

Number of Violation Events 2

53 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$250

Two monthly events are recommended from the date of the investigation February 23, 2007 to the screening date April 17, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$36

Violation Final Penalty Total \$280

This violation Final Assessed Penalty (adjusted for limits) \$280

## Economic Benefit Worksheet

**Respondent** Emerald Valley Independent Aquatic Network, Ltd. Co.  
**Case ID No.** 33285  
**Reg. Ent. Reference No.** RN101439768  
**Media** PWS  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$500	23-Feb-2007	1-Dec-2007	1.0	\$2	\$34	\$36
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install all electrical wiring at both water wells in compliance with a local or national code. The date required is the date of the investigation and the final date is the projected date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$36

# Compliance History

Customer/Respondent/Owner-Operator: CN601913502 Emerald Valley Independent Aquatic Network, Ltd. Co. Classification: Rating:

Regulated Entity: RN101439768 E V I A N Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0460206  
 PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0460206  
 WATER LICENSING LICENSE 0460206

Location: OFF FM 306 APPROX 2 MILES E OF CANYON LAKE DAM  
 ON CHIMNEY ROCK RD, COMAL COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: April 17, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: April 16, 2002 to April 17, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Tel Croston Phone: 239-5717

## Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
 N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
 N/A
- C. Chronic excessive emissions events.  
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 10/15/2002 | (12273)  |
| 2 | 11/09/2005 | (436470) |
| 3 | 04/06/2007 | (554695) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |                       |
|--------------|--|-----------------------|
| Date:        | 10/16/2002   | (12273)               |
| Self Report? | NO   | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter F 290.118(a)  |                       |
| Description: | Failure to provide a public water supply that meets the Commission's minimum water quality standards. The EP001 fluoride concentration of 2.33 mg/l exceeds the maximum secondary limit of 2.0 mg/l.           |                       |
| Self Report? | NO   | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(t)   |                       |
| Description: | Failure to post a legible sign at its production facility in plain view of the public, providing the name of the water supply and an emergency telephone number where a responsible official can be contacted. |                       |
| Self Report? | NO   | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)   |                       |
| Description: | Failure to enclose well #2 in an intruder resistant fence with lockable gates or a locked and ventilated well house to exclude possible contamination or damage to the facilities by trespassers.              |                       |
| Date:        | 11/17/2005   | (436470)              |
| Self Report? | NO   | Classification: Minor |

Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)		
Description:	Failure to provide a well casing vent on well # 3 that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated and located so as to minimize drawing in of contaminants into the well.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description:	Failure to provide a working flow measuring device (flow meter) on the discharge of well #3.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)[G]		
Description:	Failure to document the amount of chlorine used for water treatment on the monthly operations report. Systems serving fewer than 250 connections must document the amount of chemicals used and water produced by the system at least once every seven days.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to provide an intruder resistant fence with a lockable gate(s) around the elevated ground storage tank.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.118(g)(1)		
Description:	Failure to provide proof of annual public notification for a secondary fluoride exceedance.		
Date	06/27/2006	(482331)	
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.44(d)(6)		
Description:	Failure to maintain operating flush valves at dead end mains, specifically failure to maintain the flush valve at 1475 Village Top Lane.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)		
Description:	Failure to meet the Commission's minimum well capacity requirements, specifically failure to provide a minimum of 0.6 gpm of well production per connection.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(r)		
Description:	Failure to provide a minimum of 35 psi water pressure at a residence on Stennan Drive.		

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  
EMERALD VALLEY INDEPENDENT  
AQUATIC NETWORK, LTD. CO.  
RN101439768**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0658-PWS-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Emerald Valley Independent Aquatic Network, Ltd. Co. ("EVIAN") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and EVIAN appear before the Commission and together stipulate that:

1. EVIAN owns and operates a public water supply located off Farm-To-Market Road 306 approximately two miles south east of Canyon Lake Dam on Chimney Rock Road, Comal County, Texas (the "Facility") that has approximately 189 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and EVIAN agree that the Commission has jurisdiction to enter this Agreed Order, and that EVIAN is subject to the Commission's jurisdiction.
3. EVIAN received notice of the violations alleged in Section II ("Allegations") on or about April 11, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by EVIAN of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Hundred Sixty-Four Dollars (\$364) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). EVIAN has paid Two Hundred Ninety-Two Dollars (\$292) of the administrative penalty and Seventy-



Two Dollars (\$72) is deferred contingent upon EVIAN's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If EVIAN fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require EVIAN to pay all or part of the deferred penalty.

6. 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.
7. The Executive Director of the TCEQ and EVIAN have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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 EVIAN has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, EVIAN is alleged to have:

1. Failed to provide a minimum well production capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i), as documented during an investigation conducted on February 23, 2007.
2. Failed to provide an operable flow measuring device on the discharge line of well No. 3, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on February 23, 2007.
3. Failed to install all electrical wiring in compliance with local or national electrical codes, in violation of 30 TEX. ADMIN. CODE § 290.46(v), as documented during an investigation conducted on February 23, 2007.

## III. DENIALS

EVIAN generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS



1. It is, therefore, ordered by the TCEQ that EVIAN pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and EVIAN's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Emerald Valley Independent Aquatic Network, Ltd. Co., Docket No. 2007-0658-PWS-E" to:

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

2. It is further ordered that EVIAN shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, install all water system electrical wiring in compliance with a local or national electrical code, as required by 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 60 days after the effective date of this Agreed Order, provide an operable flow measuring device on the well discharge line, in accordance with 30 Tex. ADMIN. CODE § 290.42.
  - c. Within 75 days after the effective date of this Agreed Order, provide the required well capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
  - d. Within 90 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. The certification shall be notarized by a State of Texas Notary Public and 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 certification shall be submitted to:

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



with a copy to:

Water Section, Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon EVIAN. EVIAN is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by EVIAN shall be made in writing to the Executive Director. Extensions are not effective until EVIAN receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against EVIAN in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to EVIAN, or three days after the date on which the Commission mails notice of the Order to EVIAN, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

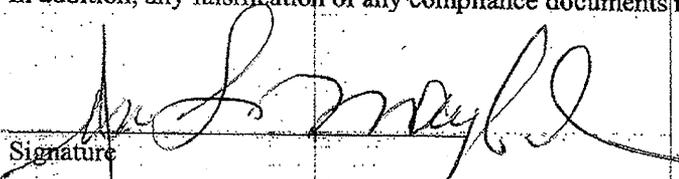
10/27/2007  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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 Attorney General's Office 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 Attorney General's Office 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.



10/11/07  
Date

Signature

Jess L. Mayfield

10/11/07  
Title

Name (Printed or typed)  
Authorized Representative of  
Emerald Valley Independent Aquatic Network, Ltd. Co.

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

