EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0748-PWS-E **TCEQ ID:** RN101201952 **CASE NO.:** 5485

RESPONDENT NAME: Town of Marshall Creek

| ORDER TYPE: | | | |
|---|--|--|--|
| 1660 AGREED ORDER | X FINDINGS AGREED ORDER | AMENDED ORDER | _IMMINENT AND SUBSTANTIAL |
| _SHUTDOWN ORDER | FINDINGS DEFAULT ORDER | _EMERGENCY ORDER | ENDANGERMENT ORDER |
| CASE TYPE: | | | |
| AGRICULTURE | AIR | INDUSTRIAL AND HAZARDOUS WASTE | MUNICIPAL SOLID WASTE |
| OCCUPATIONAL CERTIFICATION | PETROLEUM STORAGE TANKS | X PUBLIC WATER SUPPLY | RADIOACTIVE WASTE |
| MULTI-MEDIA (check all that apply) | SEWAGE SLUDGE | UNDERGROUND INJECTION CONTROL | USED OIL |
| USED OIL FILTER | WATER QUALITY | | |
| OTHER SIGNIFICANT MATTERS | XNo | cord of additional pending enforcement actions re expressed an interest in this matter. | egarding this facility location. |
| COMMENTS RECEIVED: The Tex | as Register comment period expired on Fe | bruary 26, 2007. No comments were received. | |
| 1896 TCEQ Field Investigator: N Respondent: The Honorable | linator: None inator: Mr. Sandy VanCleave, Enforcement Mr. Brandon Cooper, DFW Regional Office | Creek, P.O. Box 1070, Roanoke, Texas 76262 | Lopez, Enforcement Division, MC 219, (512) 239 |

RESPONDENT'S NAME: Town of Marshall Creek DOCKET NO.: 2006-0748-PWS-E

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|--|
| Type of Investigation: Complaint Routine X Enforcement Follow-up Records Review | Total Assessed: \$13,313 | Corrective Actions Taken: |
| Date of Complaint Relating to this Case: None | Total Deferred: \$0Expedited Settlement | The Executive Director recognizes that Marshall Creek submitted documentation to TCEQ staff on March 23, 2006 showing the following corrective measures completed at the Facility. |
| Date of Investigation Relating to this Case: October 4, 2005 | Financial Inability to Pay | |
| Date of NOE Relating to this Case: December 1, 2005 (NOE) | SEP Conditional Offset: \$0 | a. Repaired the cracks in the concrete sealing block for well No. G0610056B; |
| Background Facts: This investigation was conducted to determine compliance with Agreed Order Docket No. 2001-1346-PWS-E and applicable public water supply requirements. | Total Paid (Due) to General Revenue: \$0 The Respondent filed for bankruptcy; therefore, the TCEQ is not collecting | b. Properly installed the casing vent on well No. G0610056B so that it is facing downward and elevated so as to minimize the drawing of contaminants; |
| The investigation documented that the Respondent failed to comply with the Agreed Order and additional violations not related to the Order. Twelve violations were documented. | any penalty amount. Site Compliance History Classification:HighAvgPoor | c. Repaired the door to the pump house; |
| WATER | Person Compliance History Classification:High _X_AvgPoor | d. Painted the pressure tank; and |
| 1) Failed to keep on file and make available for Commission review a monitoring plan [30 Tex. ADMIN. CODE § 290.121(b) | Major Source:Yes _X_No | e. Copy of adopted plumbing ordinance and regulation. Ordering Provisions: |
| and Agreed Order No. 2001-1346-PWS-E]. | Applicable Penalty Policy: September 2002 | 2) The Order will require the Respondent to: |
| Failed to keep on file and make available for Commission review an up-to-date map of the distribution system [30 Tex. ADMIN. CODE § 290.46(n)(2) and Agreed Order No. 2001-1346- | Findings Order Justification: The Respondent has demonstrated a pattern of disregard for environmental law by not complying with a previously issued Agreed Order for the same violations. | a. Within 30 days after the effective date of this Agreed Order: |
| PWS-Ejanaga egit egit i Landin en antaria en | ระทั่ง | i. Submit a monitoring plan that identifies all sampling locations, sampling frequency, and specify the analytical |
| Failed to keep on file and make available for Commission review the results of pressure tank and ground storage tank | | procedures and laboratories that the system will use to comply with monitoring requirements; |
| inspections [30 Tex. ADMIN. CODE § 290.46(f)(3)(D)(ii) and Agreed Order No. 2001-1346-PWS-E]. | | ii. Submit an up-to-date map of the distribution that shows the location of valves and mains; |
| 4) Failed to keep on file and make available for Commission review a well plugging report [30 Tex. ADMIN. CODE | | fii. Submit copies of annual pressure tank and ground storage |
| § 290.46(u) and Agreed Order No. 2001-1346-PWS-E]. | | tank inspections and maintain the results of the inspections at the Facility; |
| 5) Failed to keep on file and make available for Commission review well completion data-{30-Tex. ADMN-CODE | | iv. Submit a copy of the plugging report for well No. |
| § 290.46(n)(3) and Agreed Order No. 2001-1346-PWS-E]. | | G0610056A; |
| | tanto de la compansión de | |

RESPONDENT'S NAME: Town of Marshall Creek DOCKET NO.: 2006-0748-PWS-E

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|------------------------|--|
| 6) Failed to keep on file and make available for Commission review a sanitary control easement [30 Tex. Admin. Code § 290.41(c)(1)(F) and Agreed Order No. 2001-1346-PWS-E]. 7) Failed to provide a well production capacity of 0.6 gallons per minute ("gpm") per connection [30 Tex. Admin. Code § 290.45(b)(1)(C)(i), Agreed Order No. 2001-1346-PWS-E and Tex. Health & Safety Code § 341.0315(c)]. 8) Failed to extend the well casing to a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface [30 Tex. Admin. Code § 290.41(c)(3)(B)]. 9) Failed to provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions [30 Tex. Admin. Code § 290.41(c)(3)(J)]. 10) Failed to provide the well with a casing vent with an opening that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well [30 Tex. Admin. Code § 290.41(c)(3)(K)]. 11) Failed to ensure that maintenance and housekeeping practices are implemented to ensure good working condition and general appearance of the system's facilities and equipment [30 Tex. Admin. Code § 290.46(m) and (m)(1)(B)]. 12) Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted [30 Tex. Admin. Code § 290.46(i)]. | | v. Submit well completion data for well No. GG0610056B; vi. Provide a copy of the sanitary easement for well No. G0610056B; and vii. Extend the well casing to a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface. b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. c. Within 90 days after the effective date of this Agreed Order, provide a well production capacity of 0.6 gpm per connection. d. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. |

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| P | age 1 of 22 | 03/22/07 | H:\Agreed Orders\ | Town | ofMarshallCreek\PREPC | W-TMC.wb3 | |
|----------------------|---------------|-------------|-------------------------|------|-----------------------|--------------------------|---|
| | F | Penalty (| Calculation \ | Wo | rksheet (PCW) | | |
| Policy Revision 2 | | • | | | , | PCW Revision May 19, 200 | 5 |
| TCEQ | | | | | | | |
| DATES Assigned | 05-Jun-2006 | | | | | | |
| PCW | 24-Aug-2006 | Screeni | i ng 09-Jun-2006 | E | PA Due 31-Aug-2006 | | |
| | | | | | | | |
| RESPONDENT/FACII | LITY INFORM | IATION | | | | | _ |
| Respondent | Town of Mars | shall Creek | | | | | |
| Reg. Ent. Ref. No. | | | | | | | |
| Facility/Site Region | 4-Dallas/Fort | t Worth | | < | Major/Minor Source | Minor Source | < |
| | | | | | | | |
| CASE INFORMATION | 1 | | | _ | | | |
| Enf./Case ID No. | | | | | No. of Violations | 10 | |
| | 2006-0748-P | | | | Order Type | | < |
| Media Program(s) | Public Water | r Supply | | 4 | Enf. Coordinator | Sandy VanCleave | |

| Multi-Media | | | | | EC's Team | Order Compliance | < |
|-----------------------------|--------------------------|--------------------|-----------------------------------|-----------------|-------------------|------------------|------------------------------|
| Admin. Penalty \$ Li | mit Minimum | \$50 | Maximum | \$1,000 | | | enoruma monat monatura estas |
| | | Penalt | y Calcula | ation Sec | ction | | |
| | | | , carcare | | | | |
| TOTAL BASE PEN | ALTY (Sum o | f violation l | base penal | ties) | | Subtotal 1 | \$10,650 |
| ADJUSTMENTS (+ | ·/-) TO SUBTO | TAL 1 | | | | | |
| | btained by multiplying | the Total Base Pe | | | | | |
| Compliance H | | | | Enhancement | | totals 2, 3, & 7 | \$2,663 |
| Notes | The Responde | | ne agreed en nial of liability | | der without a | | |
| Culpability [| No < | | 0% | Enhancement | | Subtotal 4 | \$0 |
| Notes | The Res | spondent doe | s not meet the | culpability c | riteria. | | |
| Good Faith Ef | fort to Comply | | 0% | Reduction | | Subtotal 5 | \$0 |
| - | Before NOV NO | V to EDPRP/Set | lement Offer | | | | |
| Extraordinary | | | | | | | |
| Ordinary N/A | | | , | | | | |
| lw. | X (m: | ark with a small x | / | | | T | |
| Notes | The Res | spondent doe | s not meet the | good faith c | riteria. | | |
| Faceramia Ba | | | 09/ | Enhancement* | | Subtotal 6 | \$0 |
| Economic Be | Total EB Amounts | \$2,395 | 0% | | Total EB \$ Amoun | | φυ |
| | ost of Compliance | \$9,400 | | | | | |
| SUM OF SUBTOT | ALS 1-7 | | | | | Final Subtotal | \$13,313 |
| OTHER FACTORS | | | | 0% | <u> </u> | Adjustment | \$0 |
| Reduces or enhances the Fir | nal Subtotal by the indi | cated percentage | . (Enter number | only; e.g30 for | -30%.) | 7 | |
| Notes | | | | | | | |
| • | | | | | Final F | Penalty Amount | \$13,313 |
| STATUTORY LIMI | T ADJUSTME | NT | | | Final As | sessed Penalty | \$13,313 |
| DEFERRAL | | | | | Reduction | Adjustment | \$0 |
| Reduces the Final Assessed | Penalty by the indicted | d percentage. (E | nter number only, | e.g. 20 for 20% | reduction.) | ¬ | |
| Notes | No de | eferral is reco | mmended for | a Findings O | rder. | | |
| PAYARI E PENAL | TY | | | | | · · | \$13,313 |

Screening Date 09-Jun-2006

Docket No. 2006-0748-PWS-E

PCW

Respondent Town of Marshall Creek

Case ID No. 5485

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101201952 Media [Statute] Public Water Supply

Enf. Coordinator Sandy VanCleave

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) | 0 | 0% | |
| | Other written NOVs | 0 | 0% | |
| *************************************** | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% | |
| Orders | Any adjudicated final enforcement orders, agreed final enforcement or without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 1 | 25% | i da a a a a a |
| Judgments and | Any non-adjudicated final court judgments or consent decrees contain a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | ing | | (SU) |
| Consent / Decrees | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a de of liability, of this state or the federal government | enial 0 | 0% | |
| Convictions | Any criminal convictions of this state or the federal government (numb of counts) | o o | 0% | Andrew Printers of Anna |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% | |
| A Pt - | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Ac 74th Legislature, 1995 (number of audits for which notices were | | 0% | |
| Audits | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits fo which violations were disclosed) | | 0% | |
| | | se Enter Yes or No | *************************************** | · } |
| | 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 | e No | 0% | *************************************** |

| | | Please En | er yes or no | | |
|---|-------|---|--------------|------|----|
| ſ | | 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% | |
| ١ | Other | Participation in a voluntary pollution reduction program | No | 0% | |
| l | | Early compliance with, or offer of a product that meets future state or | No | -0% | ĺ |
| l | | federal government environmental requirements | | 0.70 | ĺ. |

Adjustment Percentage (Subtotal 2)

25%

>> Repeat Violator (Subtotal 3)

| No | | | | 6 10 % | ₹ |
|----|--|--|--|--------|---|

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 3)

0%

Average Performer

Adjustment Percentage (Subtotal 7)

0%

>> Compliance History Summary

Compliance **History Notes**

The Respondent received one agreed enforcement order without a denial of liability.

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

Statutory Limit Test

This violation Final Assessed Penalty (adjusted for limits)

Violation Final Penalty Total

\$125

\$125

Economic Benefit (EB) for this violation

Estimated EB Amount

| | | | enefit Wo | rkshe | et | | 1.79 |
|------------------------------|--|---|---|------------------|-------------|--|----------------------------------|
| | Town of Marsh | all Creek | | | | 4 | |
| Case ID No. | | | | | | | |
| Reg. Ent. Reference No. | | | | | | | |
| Media [Statute] | | Supply | | | | Percent | Years of |
| Violation No. | 1 | | | | | Interest | Depreciation |
| | | . . | ы | | | 5,0 | 15 |
| 14 | Item | Date | Final | Yrs | Interest | Onetime | EB |
| Item Description | Cost | Required | Date | 1 5 5 | Saved | Costs | Amount |
| Description | No commas or \$ | | 10 of | | | | |
| Delayed Costs | | | | | | Server Contract | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$(|
| Buildings | pertermination of the comment of the contract of | | | 0.0 | \$0 | de de la company | \$(|
| Other (as needed) | | hariatemikainikkajapatas | | 0.0 | \$0 | \$0 | \$(|
| Engineering/construction | handenerapipakindespapikeningantaning | ikintaranaranadaripadilaringi uniqtaradar | | 0.0 | . \$0 | \$0 | \$(|
| Land | | | | 0.0 | \$0 | n/a | \$(|
| Record Keeping System | \$200 | 12-Dec-2002 | 31-Mar-2007 | 4,3 | \$43 | n/a | \$4 |
| Training/Sampling | | 14.0 | | 0,0 | \$0 | n/a | \$(|
| Remediation/Disposal | | | 1 ha 1130 is in | 0.0 | \$0 | n/a | \$(|
| Permit Costs | 1 | 1 | 24. 1. MW2 | 0.0 | \$0 | n/a | \$(|
| Other (as needed) | | | <u> </u> | 0.0 | \$0 | n/a | \$(|
| Notes for DELAYED costs | Estimated cos Date required | is the Agreed | nonitoring plan Order Docket I te is the estima | No. 2001 | -1346-PWS- | nap of the distrill E effective data ice. | oution system e and the final |
| | | <i>f</i> : | | A STATE OF STATE | | k ' | |
| Avoided Costs | ANN | UALIZE [1] avolde | ed costs before er | | | ne-time avoided c | ymmenajammarp-10 |
| Disposal | | | | 0.0 | \$0 | | \$(|
| Personnel | | | | 0.0 | \$0 | | \$(|
| nspection/Reporting/Sampling | | | | 0.0 | \$0 | | \$(|
| Supplies/equipment | | | | 0.0 | \$0 | n and the second contract of the second contr | \$(|
| Financial Assurance [2] | | | | 0.0 | \$ 0 | • | \$1 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 \$0 | าจุ้างการสามารถสามารถสามารถสามารถสามารถสามารถสามารถสามารถ | \$ |
| Other (as needed) | | l | | 0.0 | \$0 | [\$0 | \$ |
| Notes for AVOIDED costs | | | | | | | |
| Approx. Cost of Compliance | \$200 | | | | | TOTAL | \$4: |

One single event is recommended based on the October 4, 2005 investigation.

Statutory Limit Test

This violation Final Assessed Penalty (adjusted for limits)

Violation Final Penalty Total

\$125

\$125

Economic Benefit (EB) for this violation

Estimated EB Amount

| Poppondent | | | enefit Wo | rksh | eet | | 45.7 . |
|-------------------------------|---|--|-----------------------|------------|--|------------------|--------------|
| Case ID No. | Town of Marsh | all Creek | 1 | 1. 3.00 | | * * * * * * | |
| Reg. Ent. Reference No. | | | | | | 4 . F . D | / |
| Media [Statute] | | | | | 11 1 1 1 1 T | Percent | Years of |
| Violation No. | | | | A 4 1 1 | 2.2.5 | Interest | Depreciation |
| | _ | | | | | 5.0 | 15 |
| | ltem | Date | Final | Yrs | Interest | Onetime | EB |
| Item | Cost | Required | Date | | Saved | Costs | Amount |
| Description | No commas or \$ | and the state of t | and the second second | | | | |
| | | | | | | fry More Co. | \$10 / / |
| Delayed Costs | | | | | | lightha a si | u Arrivati |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| 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 | | | 51.47 | | a garage | ta, rest ust | |
| • | | · · · · · · · · · · · · · · · · · · · | | | an an magasan mananan arakan an akan ak | | |
| Avoided Costs | ANN | JALIZE [1] avoide | d costs before ei | ntering it | em (except for or | e-time avoided c | osts) |
| Disposal | | | | 0.0 | \$01 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | \$100 | 12-Dec-2002 | 31-Mar-2007 | 4.3 | \$22 | \$430 | \$452 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | ann ann ann ann ann an an ann an ann an | | | 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 | | is the Agreed | Order Docket I | No. 200 | ink and ground 01-1346-PWS-I te of compliand | E effective date | |
| Approx. Cost of Compliance | \$100 | | | | | TOTAL | \$452 |

| Page 7 of 22 | . 03/22/07 H:\Agi | eed Orders\Townof | MarshallCreek\PREPC | VV-TMC.wb3 | 3 |
|-------------------------|-------------------------|----------------------|--|---|--|
| Screening Date | 09-Jun-2006 | Docket No | . 2006-0748-PWS-E | | PCW |
| Respondent | Town of Marshall Cre | ek | | Policy Revi | sion 2 (September 2002) |
| Case ID No. | | | | PC | N Revision May 19, 2005 |
| Reg. Ent. Reference No. | | | | | |
| | Public Water Supply | | | | Special |
| Enf. Coordinator | | | | | |
| Violation Number | 3 | Desirat No. 2004 4 | 246 DIVE F. Ordering | Dravisian | |
| | | | 346-PWS-E, Ordering Imin. Code §§ 290.46(ı | | |
| Primary Rule Cite(s) | 1,00,019 | 290.46(n) | | , | |
| Secondary Rule Cite(s) | | | | | |
| | | | | | |
| | | | able for Commission re and well completion da | | |
| Violation Description | | | e October 4, 2005 inve | | |
| Ť | | | port completed by a lice | | |
| | driller and v | vell completion data | for the operational wel | l . | |
| | L | | ATALANDO MARTA ATALANDA ATALAN | | |
| | | | Bas | se Penalty | \$1,000 |
| >> Environmental, Pro | norty and Humai | . Haalth Matrix | | | |
| >> Environmental, Pro | perty and numai Harm | i ricallii Matrix | | | |
| Release | Major Moderate | Minor | | | |
| OR Actual | | | D | 7 | |
| Potential | | | Percent | _ | |
| >> Programmatic Mat | rix | | | | |
| Falsification | Major Moderate | Minor | | - | |
| | X | | Percent 10% | | |
| | | | | 1 | |
| Matrix Notes The | Respondent failed to | comply with 100 pe | rcent of this rule. | | |
| <u> </u> | | | | | |
| | | | Adjustment | -\$900 | |
| | | | Base Penal | v Subtotal | \$100 |
| | | | | , , | |
| Violation Events | | | | | |
| Number of Violat | ion Evente 1 | | | | |
| Number of violat | ion Events [1 | | | | |
| | daily | | | | |
| | monthly | | 141 4 B | Би | 6400 |
| mark only one | | | Violation Ba | ise Penaity | \$100 |
| use a small x | semiannual annual | | | | |
| | single event X | | | | |
| ş | - Louisianianianiani | | | - | |
| One | single event is recom | | e October 4, 2005 | *************************************** | |
| L | | nvestigation. | | | |
| Economic Benefit | (EB) for this viola | ation | Statutory Limit | Test | |
| | · · · | _ | - | | The state of the s |
| Estimated E | B Amount \$43 | | Violation Final Pe | nalty Total | \$125 |
| | This vi | olation Final Asses | sed Penalty (adjusted | l for limits) | \$125 |

| | Ec | onomic B | enefit Wo | rksh | eet | | |
|--|--|--|--|-----------------------|--|--|--------------------------------|
| Respondent | Town of Marsh | all Creek | | ; # ₁ ,, | | ************************************** | |
| Case ID No. | | | | , | | 4.5 | |
| Reg. Ent. Reference No. | RN101201952 | | | | | | |
| Media [Statute] | | Supply | | | 100 | Percent | Years of |
| Violation No. | 3 - | | | 41 | That last . | | Depreciation |
| | | | | | | 5.0 | 15 |
| . | ltem | Date | Final | Yrs | Interest | | SOLUEB |
| Item and A | | | Date | 1 | Saved | Costs | Amount |
| Description - | No commas or \$ | 100 | e de la companya della companya della companya de la companya della companya dell | | s | | |
| 51 15 1 | | 177 | * · · · · · · · · · · · · · · · · · · · | | | y Runo Ottori Si | Was sta |
| Delayed Costs | [pt | | | 1 001 | <u>ው</u> | · | |
| Equipment | *************************************** | | | 0.0 | \$0 \$0 | \$0 \$0 | \$0 \$0 |
| Buildings | | | derinindebukatuatanaantutudu | 0.0 | \$0 \$0 | \$0 \$0 | ъо \$0 |
| Other (as needed) | | erenzerenzerzenzerlesteltzetzetententententerteltzeltz | | 0.0 | \$0 \$0 | \$0 \$0 | \$0 \$0 |
| Engineering/construction Land | | | | 0.0 | \$0 | n/a | \$0 |
| | \$200 | 12-Dec-2002 | 34 Mar 2007 | 4.3 | \$43 | n/a | \$43 |
| Record Keeping System Training/Sampling | i kamen manana manda manana di | 12-1360-2002 | 31-IVIA1-2001 | 0.0 | Ψ-30 \$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 |
| Other (as needed) | | | <u> </u> | 3 | | | |
| Notes for DELAYED costs | required is the | Agreed Order | copy of the we r Docket No. 20 is the estimate | 001-13 | 46-PWS-E effe | well completio ective date and | n data. Date the final date |
| | Shirt (cristian areas) and harm of the same and areas of the | | | .hiraurumun | an giri siki an aan an fari ye an fara ah ay fara sa aan ay isti kisisiyi. | **** | |
| Avoided Costs | ANNI | JALIZE [1] avoide | ed costs before er | diamenta and a second | | ne-time avoided co | him in the first winds |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | francisco come con a contration de la co | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | Spirit management of the spirit of the spiri | | | 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 | \$200 | an a | | | | TOTAL | \$43 |

and the state of t

· Store S. J.

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Page 9 of 22 03/22/07 H:\Agreed Orders\TownofMarshallCreek\PREPCW-TMC.wb3 Screening Date 09-Jun-2006 Docket No. 2006-0748-PWS-E **PCW** Respondent Town of Marshall Creek Policy Revision 2 (September 2002) Case ID No. 5485 PCW Revision May 19, 2005 Reg. Ent. Reference No. RN101201952 Media [Statute] Public Water Supply Enf. Coordinator Sandy VanCleave Violation Number TCEQ Agreed Order Docket No. 2001-1346-PWS-E, Ordering Provision No. 3.g.ii and 30 Tex. Admin. Code § 290.41(c)(1)(F) Primary Rule Cite(s) Secondary Rule Cite(s) Failed to keep on file and make available for Commission review a sanitary control easement for Well No. G0610056B. Specifically, during **Violation Description** the October 4, 2005 investigation, the facility failed to provide a copy of a sanitary control easement for the well. \$1,000 **Base Penalty Environmental, Property and Human Health Matrix** >> Release Moderate Minor OR Actual Potential Percent **Programmatic Matrix** Falsification Major Moderate Percent 10% Matrix Notes The Respondent failed to comply with 100 percent of this rule. Adjustment -\$900 \$100 Base Penalty Subtotal **Violation Events** Number of Violation Events daily monthly Violation Base Penalty \$100 quarterly mark only one use a small :

One single event is recommended based on the October 4, 2005 investigation.

\$22

Statutory Limit Test

This violation Final Assessed Penalty (adjusted for limits)

Violation Final Penalty Total

\$125

\$125

Economic Benefit (EB) for this violation

Estimated EB Amount

| | | onomic B | enefit Wo | rkshe | et | | - - |
|-------------------------------|--|--------------------------------------|--|-----------------------------|--------------------------------------|---|-----------------|
| | Town of Marsh | all Creek | 150 | d et et | r pro- | | |
| Case ID No. | | | | | | April 1985 Art | |
| Reg. Ent. Reference No. | | | | .571 | are r | | |
| Media [Statute] | | Supply | | | " . | Percent | Years of |
| Violation No. | 4 | | | r Myres . | | interest 5.0 | Depreciation |
| | •• | 5.4 | F11 | | H H | i announcement in the state of | 15 EB |
| . Itania | Item | Date | Final | Yrs | Interest | Onetime | Amount |
| Item Description | Cost | Required | Date | -17 May | Saved | Costs | Amount |
| Description | No commas or \$ | ed war e video | | 1.14 | | | |
| Delayed Costs | | | | | ÷ r | e a service | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$C |
| Buildings | scanner de materior de materior de la constante de la constant | eranamanananakarperenteranana | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | <u> </u> | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | มหายเลยาว) หายกำนักมห้ายน้อนนายมหลุ่นกากเลย | nanapaningan padikan mananan | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | \$100 | 12-Dec-2002 | 31-Mar-2007 | 4.3 | \$22 | n/a | \$22 |
| 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 | \$C |
| | Fatingted one | t to provide a | any of a coult | an Looptr | ol ogsement f | or the well Dr | sto roquirod in |
| Notes for DELAYED costs | the Agreed | Order Docket | No 2001-1346 | SPWS-F | - effective date | and the final | date is the |
| NOTES TO DELATED GOSGS | _ | | estimated d | | | | |
| | | ngeronnenororogramatorogrammenacaren | THE THE PERSON NAMED OF TH | and an an included the con- | | | |
| | | | | | | | |
| | | | | | | Charles Inc. | |
| Avoided Costs | Manufacture and Sandard and Sandard | UALIZE [1] avoide | ed costs before er | gypraniumanninini pyriim | ************************************ | etablikaniya filojetistiya nyamamamay | |
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | Mande control to the | | - Custrum ramin management | 0.0 | \$0 | \$0 #0 | \$(|
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 °0 | \$(\$(|
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | ψι |
| Financial Assurance [2] | | | | 0.0 | \$0 \$0 | \$0 #0 | \$(|
| ONE-TIME avoided costs [3] | | | | 0.0 | \$01 \$0 | \$0 \$0 | \$(\$(|
| Other (as needed) | | L | 1. | [U.U] | 104 | \$U] | Þί |
| Notes for AVOIDED costs | | • | | | | | |
| | | | | | | | |
| | | 1 | | | | | |
| Approx. Cost of Compliance | \$100 | | | | | TOTAL | \$22 |

and the second section of the second second

This violation Final Assessed Penalty (adjusted for limits)

\$11,875

\$1,681

TOTAL

tyriseo'l east in t

Approx. Cost of Compliance \$5,000

| Page 13 of 2 | 2 03/22/07 H:\Agreed Orders\TownofMarshallCreek\PREPCW-TMC.wb | 3 |
|---|--|-------------------------|
| Screening Date | 09-Jun-2006 Docket No. 2006-0748-PWS-E | PCW |
| Respondent | Town of Marshall Creek Policy Revi | sion 2 (September 2002) |
| Case ID No. | | V Revision May 19, 2005 |
| Reg. Ent. Reference No. | | |
| | Public Water Supply | |
| Enf. Coordinator | | |
| Violation Number | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 290.41(c)(3)(B) | |
| Secondary Rule Cite(s) Violation Description | Failed to extend the well casing for well No. G0610056B to a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface. Specifically, during the October 4, 2005 investigation, it was documented that the well casing extended approximately 11 inches. | |
| ' | Base Penalty | \$1,000 |
| | | |
| >> Environmental, Pro | operty and Human Health Matrix | • |
| Release | Harm Major Moderate Minor | |
| OR Actual | Major Moderate Millor | |
| Potential | x Percent 10% | |
| - | | |
| >> Programmatic Mat | | |
| Falsification | Major Moderate Minor Percent | |
| | Innermonal Innermonal Innermonal | |
| Metrix Notes above the | to provide a well casing that extends a minimum of 18 inches e elevation of the finished floor may allow the well to be exposed ant amounts of pollutants which would not exceed levels that are protective of human health. | |
| / | Adjustment -\$900 | |
| | Base Penalty Subtotal | \$100 |
| Violation Events | | |
| Number of Viola | ion Fuento 2 | |
| Number of viola | ion Events 2 | |
| mark only one use a small x | | \$200 |
| | arterly events are recommended based on documentation of the during the October 4, 2005, investigation to the bankruptcy filing date, January 22, 2006. | |
| Economic Benefit | (EB) for this violation Statutory Limit Test | |
| Estimated E | B Amount \$52 Violation Final Penalty Total | \$250 |

This violation Final Assessed Penalty (adjusted for limits)

| | Ec | onomic B | enefit Woı | rkshe | et | 1 1 1 1 | - 4116 |
|-------------------------------|--|--|--|-----------------|---------------|-------------------|--|
| Respondent | Town of Marsh | all Creek | | | | 4 - 5 | |
| Case ID No. | | | · | | | | |
| Reg. Ent. Reference No. | RN101201952 | | | | 200 | | |
| Media [Statute] | Public Water S | Supply | | *. | | Percent | Years of |
| Violation No. | 6 | | | | **** | Interest | Depreciation |
| | | | | | | 5.0 | 15 |
| | ltem | Date | Final | Yrs | Interest | Onetime | EB |
| Item | Cost | Required | Date | | Saved | Costs | Amount |
| Description | No commas or \$ | | | | | oliv Hali statika | er i S |
| Delayed Costs | | 1,1 | . T | | | | · |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | I |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | \$500 | 04-Oct-2005 | 31-Mar-2007 | 1.5 | \$2 | \$50 | \$52 |
| Land | | | | 0.0 | \$0 | n/a | \$(|
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$(|
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$(\$(|
| Remediation/Disposal | | | | 0.0 | \$0[| n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0] | n/a | \$(|
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |
| Notes for DELAYED costs | | | e well casing 18 is the investiga cor | | e. Final date | | |
| Avoided Costs | ANNI | IALIZE (4) avoids | ed costs before er | tering its | | e-time avoided o | |
| Disposal | | | | 0.0 | \$0 | \$0 | |
| Personnel | | THE CONTRACTOR OF THE PROPERTY | constitution or agency and a constitution of | 0.0 | \$0 | \$0 | |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | |
| Supplies/equipment | | perennanteren hangan ann andram | | 0.0 | \$0\ | \$0 | Anna maria |
| Financial Assurance [2] | | para na makan sa makan mana na padap | ozależnom com rebritary w mary czów r | 0.0 | \$0 | \$0 | |
| ONE-TIME avoided costs [3] | - North Control of the Control of th | | propragation commitment | 0.0 | \$0 | \$0 | |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | เรียงการแบบสายสายสายสายสายสายสายสายสายสายสายสายสายส |
| Notes for AVOIDED costs | | | <i>Lacomorphismas</i> | Ommento unho co | | | |
| | \$500 | | | | | TOTAL | \$52 |

H:\Agreed Orders\TownofMarshallCreek\PREPCW-TMC.wb3 Page 15 of 22 03/22/07 Screening Date 09-Jun-2006 **PCW** Docket No. 2006-0748-PWS-E Respondent Town of Marshall Creek Policy Revision 2 (September 2002) Case ID No. 5485 PCW Revision May 19, 2005 Reg. Ent. Reference No. RN101201952 Media [Statute] Public Water Supply Enf. Coordinator Sandy VanCleave **Violation Number** 30 Tex. Admin. Code § 290.41(c)(3)(J) Primary Rule Cite(s) Secondary Rule Cite(s) Failed to provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inches per foot. **Violation Description** Specifically, during the October 4, 2005 investigation, it was documented that the concrete sealing block on well No. G0610056B was cracked in several areas and in need of repair. Base Penalty \$1,000 **Environmental, Property and Human Health Matrix** >> Harm Release Moderate Minor OR Actual 10% Percent Potential **Programmatic Matrix** >> Percent A cracked sealing block could expose human health to significant amount Matrix Notes of contaminants which would not exceed levels that are protective of human health. Adjustment -\$900 \$100 **Base Penalty Subtotal Violation Events** Number of Violation Events daily monthly \$200 **Violation Base Penalty** mark only one quarterly use a small x emiannual annua

Two quarterly events are recommended based on documentation of the violation during the October 4, 2005, investigation to the bankruptcy filing date, January 22, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7 Violation Final Penalty Total \$250

This violation Final Assessed Penalty (adjusted for limits) \$250

Page 16 of 22 03/22/07 H:\Agreed Orders\TownofMarshallCreek\PREPCW-TMC.wb3

| eannananananananananananananananananana | Ec | onomic B | enefit Wor | kshe | eet | | |
|---|--|---|---|---|---|--|--|
| | Town of Marsh | all Creek | | | | | |
| Case ID No. | | | | | | | |
| Reg. Ent. Reference No. | | | | | , ym | ······································ | annual and a second |
| Media [Statute] | | Supply | | | | Percent | Years of |
| Violation No. | 7 | | | | Albaha 1.5 | Interest | Depreciation |
| | | | | | n - L | 5.0 | himininalianianianamimael |
| j | Item | Date | Final | Yrs | Interest | Onetime | EB |
| ltem | | Required | Date | | Saved | Costs | Amount |
| Description | No commas or \$ | | | | | | |
| Delayed Costs | | • • | | | | | |
| Equipment | | peninananananananananan I | | 0.0 | | \$0 | \$0 |
| Buildings | akanacanacakacidacanbinatakahossana | | ankinimeneteinintelteltelteinmeneteletlet | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | \$200 | 04-Oct-2005 | 23-Mar-2006 | 0.5 | \$0 | \$ 6 | \$7 |
| 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 | | | ne cracked seal ate. Final date | | | | |
| Avoided Costs | ANNI | UALIZE [1] avoide | ed costs before en | tering it | em (except for on | e-time avoided c | osts) |
| 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 | | | | | | | |
| $\{(x,y)\in \{x,y\}: x\in Y\cap A\}$ | - Character Commence of the Co | | | Participa de la Constantina del Constantina de la Constantina del Constantina de la | | | |
| Approx. Cost of Compliance | \$200 | | | | | TOTAL | \$7 |
| | | *************************************** | | | ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | | |

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| | Page 17 of | 22 03/22/07 | H:\Agree | d Order | s\TownofMarshallCreek\PREF | CW-TMC.wb | 3 |
|--|-----------------------|---------------------------------------|--|--|--|-----------------------------------|--|
| | Screening Date | 9 09-Jun-2006 | | Dog | ket No. 2006-0748-PWS-E | | PCW |
| | | t Town of Marsh | all Creek | | | Policy Revi | ision 2 (September 2002) |
| | Case ID No | . 5485 | | | | PC | W Revision May 19, 2005 |
| Reg | . Ent. Reference No | . RN101201952 | | | | | |
| | Media [Statute | | | | | | |
| | Enf. Coordinato | | ave | | | | |
| | Violation Numbe | \\\\.\\.\.\.\\.\. | | | | | |
| | Primary Rule Cite(s | | 30 Tex. | . Admin | . Code § 290.41(c)(3)(K) | | |
| | Secondary Rule Cite(s |) | | | The state of the s | | |
| | Violation Description | covered v downward contaminants | vith 16-me , elevated s into the w d that the c | sh or fil and loc vell. Sp casing v | h a casing vent with an opening corrosion-resistant screen, sated so as to minimize the drapecifically, during the investigarent on well No. G0610056B wastead of downward. | facing wing of tion, it was | The control of the co |
| | | | | | В | ase Penalty | \$1,000 |
| | | | | | | | |
| >> | Environmental, Pi | | | ealth l | Matrix | | |
| | Release | | arm | din nu | | | |
| OR | Actua | (<u></u> | derate N | Minor | | | |
| | Potentia | | х | | Percent 10 | % | |
| | | \ | *** | | | | *************************************** |
| >> | Programmatic Ma | | | _ | | | , |
| | Falsificatio | n Major Mod | derate N | Minor | Percent | | |
| | | | | | refeelit | | |
| NAME OF THE PROPERTY OF THE PR | | ipply to a significa | ant amoun | nt of pol | nt for the well could expose the lutants which would not excee f human health. | | |
| | | | | | Adjustme | nt -\$900 | |
| | | | | | Base Pena | lty Subtotal | \$100 |
| announcement of the last | Violation Events | | | | | | |
| | Number of Viola | ation Events | 2 | | | | |
| and the same | | | —————————————————————————————————————— | | | | |
| | | daily monthly | | | | | |
| | mark only on | | x | | Violation E | ase Penalty | \$200 |
| | use a small | | | | | · | |
| COLUMN TO THE PARTY OF THE PART | | annual | | | | | |
| | | single event | | | | | |
| Artikala Parket deka deka deka deka deka deka deka deka | | n during the Octo | | 5, inves | pased on documentation of the stigation to the bankruptcy filin 2006. | | |
| | Economic Benefi | (EB) for this | violatio | n | Statutory Limit | Test | |
| | Estimated | EB Amount | \$3 | | Violation Final F | enalty Total | \$250 |

This violation Final Assessed Penalty (adjusted for limits)

\$250

| | Ec | onomic B | enefit Wo | rkshe | eet | 5 1.3 | A** |
|-------------------------------|--|---|--|-------------------------|-------------------|---|--|
| Respondent | Town of Marsh | | | | | 19 | |
| Case ID No. | 5485 | | | | | 1917 | |
| Reg. Ent. Reference No. | RN101201952 | | | | | | at a second of the second of t |
| Media [Statute] | Public Water S | Supply | | | ľ | Percent | Years of |
| Violation No. | 8 | | | 615 | 6.05 | Interest | Depreciation |
| | | | | | Jan J | 5.0 | 15 |
| • | ltem | Date | Final | Yrs | Interest | Onetime | . EB |
| Item | Cost : | Required | Date | | Saved | Costs | Amount |
| Description | No commas or \$ | , | , | | | | |
| | | | | | | | |
| Delayed Costs | | | 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - | *1 | | *************************************** | · |
| Equipment | | | , 112 T 10 | 0.0 | \$0 | \$0 | \$(|
| Buildings | | | | 0.0 | \$0 | | \$(|
| Other (as needed) | \$100 | 04-Oct-2005 | 23-Mar-2006 | | \$0 | \$3 | \$3 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$(|
| Land | | | | 0.0 | \$0 | n/a | \$(|
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$(|
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$(|
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$(|
| Permit Costs | | | | 0.0 | \$0 | n/a | \$(|
| Other (as needed) | | *************************************** | | 0.0 | \$0 | n/a | \$(|
| Notes for DELAYED costs | Estimated co | ost to properly | position the w | ell casin | ng vent. Date r | equired is the | investigation |
| Notes for DELATED Costs | | date. Fin | al date is the o | late the | violation was | corrected. | |
| | i Brancia managana di managana managana di managana di managana di managana di managana di managana di managan | | | | | | |
| | | | | | | | |
| Avoided Costs | ANNU | JALIZE [1] avoide | d costs before e | ntering it | em (except for or | e-time avoided c | osts) |
| Disposal | | O M. Marian and | 1. | 0.0 | \$0 | \$0 | \$(|
| Personnel | | | | 0.0 | \$0 | \$0 | \$(|
| inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$(|
| Supplies/equipment | The state of the s | | | 0.0 | \$0 | \$0 | \$(|
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$(|
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$(|
| Other (as needed) | | <u> таки разанија полиниста</u> | automationen autom | 0.0 | \$0 | \$0 | \$(|
| | | | | | | | |
| Notes for AVOIDED costs | | | | | | | |
| | H . 1 / . | | , | | | | |
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| ************* | Page 19 of 2 | 22 03/22/07 H:\Agreed Orders\TownofMarshallCreek\PREPCW-TMC.wb | |
|--|--|--|-------------------------|
| | Screening Date | 09-Jun-2006 Docket No. 2006-0748-PWS-E | PCW |
| | Respondent | Town of Marshall Creek Policy Revis | sion 2 (September 2002) |
| | Case ID No. | | V Revision May 19, 2005 |
| Reg | . Ent. Reference No. | RN101201952 | |
| | | Public Water Supply | |
| | Enf. Coordinator | | |
| | Violation Number | | |
| | Primary Rule Cite(s) | | |
| | Secondary Rule Cite(s) | | |
| | Violation Description | Failed to ensure that maintenance and housekeeping practices are implemented to ensure good working condition and general appearance of the system's facilities and equipment. Specifically, during the October 4, 2005 investigation, it was documented that there was a large hole on the bottom portion of the door to the pump house and the exterior coating of the pressure tank revealed signs of oxidation and rust. | |
| | | Base Penalty[| \$1,000 |
| >> | Environmental, Pr | operty and Human Health Matrix | |
| | Dologo | Harm | |
| OR | Release Actua | | |
| 0.1 | Potentia | | |
| | | Characteristics and American and American accorded by Order American and American and American and American accorded by Order American and American accorded by Order American and American and American accorded by Order American accorded by | |
| >> | Programmatic Mat | trix | |
| | Falsification | Major Moderate Minor Percent | |
| | | health or the environment could be exposed to an insignificant of contaminants which would not exceed levels protective of human health. | |
| | | Adjustment -\$950 | ٠ |
| | | Base Penalty Subtotal | \$50 |
| | Violation Events | | |
| | Number of Viola | tion Events 1 | |
| | mark only on | daily monthly Violation Base Penalty | \$50 |
| Apparation and a state of the s | use a small | x semiannual annual single event X | |
| Name and the Control of the Control | The state of the s | One single event is recommended. | |
| | Economic Benefit | (EB) for this violation Statutory Limit Test | • |
| | Estimated I | EB Amount \$82 Violation Final Penalty Total | \$63 |

This violation Final Assessed Penalty (adjusted for limits)

| Respondent Case ID No. Reg. Ent. Reference No. Media [Statute] Violation No. | RN101201952 | | | 1 Lillion | | | |
|--|--|---|---|---------------------------------------|----------------------------------|--|---|
| Reg. Ent. Reference No. Media [Statute] | RN101201952 | | | | | | |
| Media [Statute] | | | | | | | |
| | Public Water S | | | | i zasta e si ili | Oprocessor operation propriess acceptance of the second acceptance of | men a crecunique como men propo hacimi carros construciones |
| Violation No. | | Supply | | 7 | <i>∆</i> 114 A.14 | Percent | Years of |
| | 9 | | | Arabit | and the second | Interest | Depreciation |
| | | | | 128 | ar sergi ye. | 5.0 | 15 |
| | ltem | Date | Final | Yrs | Interest | Onetime | EB |
| ltem | Cost | Required | Date | B.34 (97) | Saved | Costs | Amount |
| Description | No commas or \$ | | | | | A CONTRACTOR | |
| | | | | | | | |
| Delayed Costs | (principle and principle and p | peranganangan anganangan Perangangan pangangan | farmanhiigensplanhishminanga | | mind a minter more domain a mind | | |
| Equipment | | e proceeding a normal angles contraction contraction. | anganamanapananananananan | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | . \$0 | \$0 | \$(|
| Other (as needed) | \$2,500 | 04-Oct-2005 | 23-Mar-2006 | 0.5 | \$4 | \$78 | \$82 |
| Engineering/construction | | namananing palamahin indi | | 0.0 | \$0 | \$0 | \$(|
| Land | | | | 0.0 | \$0 | n/a | \$(|
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$(|
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$(|
| Remediation/Disposal | | | | 0.0 | \$ 0 | n/a | \$(|
| Permit Costs | | | | 0.0 | \$0 \$0 | n/a | \$0 \$0 |
| Other (as needed) | | | 1.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | 0.0 | U G | n/a |) |
| Notes for DELAYED costs | Estimated c required is | ost to repair th the investigat | e door to the p ion date. Fina | ump hou I date is t | se and repai he date the \ | nt the pressure /jolations were | tank. Date |
| | Account Head | 1 7 9 g | | | | Prest 5-1 | |
| Avoided Costs | ANN | JALIZE [1] avoide | ed costs before e | District and the property of the same | annignosana ang ana and a bigin | ne-time avoided c | paratra representativa constituit acut acut acut |
| Disposal | | | | 0.0 | \$0 | \$0 | \$(|
| Personnel | | | | 0.0 | \$ 0 | \$0 | \$(|
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$(|
| Supplies/equipment | | | | 0,0 | \$0 | \$0 | Ş |
| Financial Assurance [2] | | | | .0.0 | \$0 | \$0 | \$ |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$ |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$ |
| Notes for AVOIDED costs | The second space of the second | | | | | | |
| and the second second | | | | | | | |

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Page 21 of 22 03/22/07 H:\Agreed Orders\TownofMarshallCreek\PREPCW-TMC.wb3 Screening Date 09-Jun-2006 **PCW** Docket No. 2006-0748-PWS-E Respondent Town of Marshall Creek Policy Revision 2 (September 2002) Case ID No. 5485 PCW Revision May 19, 2005 Reg. Ent. Reference No. RN101201952 Media [Statute] Public Water Supply Enf. Coordinator Sandy VanCleave **Violation Number** 10 30 Tex. Admin. Code § 290.46(i) Primary Rule Cite(s) Secondary Rule Cite(s) Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are **Violation Description** permitted. Specifically, during the October 4, 2005 investigation, it was documented that the water system had not adopted any type of plumbing ordinance, regulation or service agreement. \$1,000 Base Penalty **Environmental, Property and Human Health Matrix** >> Harm Release Moderate Minor OR Actual Potential Percent **Programmatic Matrix** >> Falsification Maio Moderate Percent 10% Matrix Notes The Respondent failed to comply with 100 percent of this rule. Adjustment -\$900 Base Penalty Subtotal \$100 **Violation Events** Number of Violation Events daily monthly \$100 **Violation Base Penalty** mark only one use a small x semiannuai annual single event One single event is recommended based on documentation of the violation during the October 4, 2005 investigation. Economic Benefit (EB) for this violation **Statutory Limit Test** Estimated EB Amount \$12 **Violation Final Penalty Total** \$125

This violation Final Assessed Penalty (adjusted for limits)

\$125

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| | Town of Marsh | all Creek | | | | 4 | |
| Case ID No. | | | | | | | |
| Reg. Ent. Reference No. | | | | | , . gwo | *************************************** | · vorteniferationen en mensionian com concentration |
| Media [Statute] | | Supply | | | | Percent | Years of |
| Violation No. | 10 | | | | | | Depreciation |
| | | | | | | 5.0 | 15 |
| | Item | Date | Final | Yrs | Interest | Onetime | . , - ЕВ |
| Item | Cost | Required | Date | | Saved | Costs | Amount |
| Description | No commas or \$ | | | | | | |
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| Delayed Costs | | 47 - | | germents settem estityen e | | | p-1-2-7-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1 |
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| Land | 2177311771 | | | 0.0 | \$0 | n/a | \$(|
| Record Keeping System | \$500 | 04-Oct-2005 | 23-Mar-2006 | 0.5 | \$12 | n/a | \$12 |
| Training/Şampling | | | | 0.0 | \$0 | n/a | \$(|
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$(|
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| Notes for DELAYED costs | required is the | investigation | date. Final date | e is the | estimated date | a plumbing | ordinance was |
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Compliance History

| Customer/Respondent/Owner-Operator: | CN600623292 | TOWN OF MARSHALL CREE | K Classification: | AVERAGE Rating: 3.01 |
|---|----------------------------------|-------------------------------------|-------------------------|----------------------|
| Regulated Entity: | RN101201952 | TOWN OF MARSHALL CREE | EK Classification: | Site Rating: |
| ID Number(s): | PUBLIC WATER : WATER LICENSII | SYSTEM/SUPPLY NG | REGISTRATION LICENSE | 0610056 0610056 |
| Location: | NE OF SH 114 AN | ID US 377 JUNCTION | | |
| TCEQ Region: | REGION 04 - DFV | V METROPLEX | · | |
| Date Compliance History Prepared: | June 16, 2006 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | June 16, 2001 to J | une 16, 2006 | | |
| TCEQ Staff Member to Contact for Additional Inform | ation Regarding this | Compliance History | | , |
| Name: Sandy VanCleave | Ph | one: (512) 239-2670 | | |
| | Site | Compliance History Compor | nents | |
| 1. Has the site been in existence and/or operation fo | r the full five year co | mpliance period? | Yes | • • |
| 2. Has there been a (known) change in ownership of | f the site during the c | ompliance 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 judgement | ents, and consent de | crees of the state of Texas and the | ne federal government. | |
| Effective Date: 12/12/2002 | | ADMINORDER 2001-134 | 6-PWS-E | |

Classification: Moderate

30 TAC Chapter 290, SubChapter F 290.121(b)[G]

Description: Violation of: §290.121(G)

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(a)(i) Failure to provide a monitoring plan for the Town of Marshall Creek water system.

Classification: Moderate

Description: Violation of: §290.46(n)(2)

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

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(c)(iv)

Failure to provide an accurate and up-to-date map of the distribution system.

Classification: Moderate

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

Description: Violation of: 290.46(f)(3)(D)(ii)

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(c)(ii)

Failure to conduct and provide current annual tank inspection reports on the pressure storage tank.

Classification: Moderate

30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B) Description: Failure to conduct annual pressure tank inspections.

Classification: Moderate

30 TAC Chapter 290, SubChapter D 290.46(u)

Description: Violation of: §290.46(u)

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(g)(i)

Failure to provide the plugging report for Well (G1110079A).

Classification: Moderate

30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) Citation:

Description: Violation of: 290.41(c)(1)(F)

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(g)(ii) Failure to maintain and provide sanitary control easements for Well 2 (G0610056B).

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)

Description: Violation of: 290.46(n)(3)

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(c)(iii) Failure to provide and keep on file the well completion data (well log) for Well (G0610056B).

Classification: Minor

30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to properly maintain the three strands of barbed wire at the top of the fence at the

ground storage tank and pressure tank locations.

Classification: Moderate

Citation: 30 TAC Cha

30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution

system at a minimum of .2 MG/L free chlorine.

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.42(e)(7)

Description: Failure to completely cover and seal hypochlorination solution container to prevent the

entrance of dust, insects, and other contaminants.

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Fallure to maintain all distribution lines and related appurtenances in a watertight condition.

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

4G THC Chapter 321, SubChapter D 341.0315(c)

Description: Violation of: 290.45(b)(1)(D)(i)

Violation of Agreed Order Docket No.: 2001-1346-PWS-E, Ordering Provision: 3(e)(II)

Failure to provide a well production capacity of 0.6 gpm per connection.

Classification: Moderate

Citation:

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

Description: Failure to extend the well casing 18 inches above the natural ground level,

Classification: Moderate

Classification:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)

Description: Failure to provide well #1 with a concrete sealing block.

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Fallure to seal each wellhead with the use of gaskets or a pliable crack resistant caulking

compound.

Classification: Moderate

Citation

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

4G THC Chapter 321, SubChapter D 341,036[G]

Description: Failure to provide well 1 with a screened casing vent.

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)

Description: Failure to provide a suitable sampling tap on well 1.

Classification: Moderate

30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder resistant fence or a lockable well house for well #1.

Classification: Moderate

Citation:

2B TWC Chapter 13, SubChapter A 13,132(a)(1)

30 TAC Chapter 288, SubChapter B 288,20[G]

Description: Failure to provide a drought contingency plan.

Classification: Moderate

Citation:

2B TWC Chapter 13, SubChapter A 13.136(a)

30 TAC Chapter 291, SubChapter B 291.21(c)(7)

30 TAC Chapter 291, SubChapter F 291.93(2)(A)

Description: Failure to ensure that the Utility's tariff included an approved drought contingency plan.

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 12/16/2005 (437415)

2 06/27/2003 (28110

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

M/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 | § | BEFORE THE |
|------------------------|---|-----------------------|
| ENFORCEMENT ACTION | § | |
| CONCERNING | § | |
| TOWN OF MARSHALL CREEK | § | TEXAS COMMISSION ON |
| RN101201952 | § | |
| | § | ENVIRONMENTAL QUALITY |

AGREED ORDER DOCKET NO. 2006-0748-PWS-E

| At its | agenda, the Texas Commission on Environmental Quality ("the |
|-----------------------------|---|
| Commission" or "TCEQ") | considered this agreement of the parties, resolving an enforcement action |
| regarding Town of Marshall | Creek ("Marshall Creek") under the authority of TEX. HEALTH & SAFETY CODE |
| ch. 341. The Executive Di | rector of the TCEQ, through the Enforcement Division, and Marshall Creek |
| presented this agreement to | the Commission. |

Marshall Creek understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, 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 Agreed Order, Marshall Creek agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Marshall Creek.

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

I. FINDINGS OF FACT

- 1. Marshall Creek owns and operates a public water supply located northeast of State Highway 114 and US 377 Junction, Denton County, Texas (the "Facility") that has approximately 151 service connections and serves at least 25 people per day for at least 60 days per year.
- 2. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not keep on file and make available for Commission review a monitoring plan that identifies all sampling locations, sampling frequency, and specify the analytical procedures and laboratories that the public water system will use to comply with monitoring.

- 3. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not keep on file and make available for Commission review an up-to-date map of the distribution system. Specifically, the distribution map provided did not show the location of the valves and mains.
- 4. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not keep on file and make available for Commission review the results of pressure tank and ground storage tank inspections.
- 5. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not keep on file and make available for Commission review a plugging report for well No. G0610056A.
- 6. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not keep on file and make available for Commission review well completion data for Well No. G0610056B.
- 7. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not keep on file and make available for Commission review a sanitary control easement for well No. G0610056B.
- 8. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not provide a well production capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, the well production provided was 42 gpm. Based on the number of connections, the Facility is required to provide a well production of 90.6 gpm per connection.
- 9. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not extend the well casing for well No. G0610056B to a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface. Specifically, the well casing was approximately 11 inches.
- 10. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inches per foot. Specifically, the concrete sealing block for well no. G0610056B was cracked in several areas.
- During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not provide the well with a casing vent with an opening that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well. Specifically, the casing vent on well No. G06100056B was facing in an upright position.
- 12. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not ensure that maintenance and housekeeping practices are implemented to ensure good working condition and general appearance of the system's facilities and equipment. Specifically, there was a large hole on the bottom portion of the door to the pump house and the exterior coating of the pressure tank revealed signs of oxidation and rust.

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- 13. During an investigation on October 4, 2005, TCEQ staff documented that Marshall Creek did not adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.
- 14. Marshall Creek received notice of the violations on December 6, 2005.
- 15. The Executive Director recognizes that Marshall Creek submitted documentation to TCEQ staff on March 23, 2006 showing the following corrective measures completed at the Facility:
 - a. Repaired the cracks in the concrete sealing block for well No. G0610056B;
 - b. Properly installed the casing vent on well No. G0610056B so that it is facing downward and elevated so as to minimize the drawing of contaminants;
 - c. Repaired the door to the pump house;
 - d. Painted the pressure tank; and
 - e. Copy of adopted plumbing ordinance and regulation.
- 16. On or about January 23, 2006, Marshall Creek filed a petition for bankruptcy relief pursuant to Chapter 9 of the United States Code.

II. CONCLUSIONS OF LAW

- 1. Marshall Creek is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
- 2. As evidenced by Finding of Fact No. 2, Marshall Creek failed to keep on file and make available for Commission review a monitoring plan, in violation of 30 Tex. ADMIN. CODE § 290.121(b) and Agreed Order No. 2001-1346-PWS-E.
- 3. As evidenced by Finding of Fact No. 3, Marshall Creek failed to keep on file and make available for Commission review an up-to-date map of the distribution system, in violation of 30 Tex. ADMIN. CODE § 290.46(n)(2) and Agreed Order No. 2001-1346-PWS-E.
- 4. As evidenced by Finding of Fact No. 4, Marshall Creek failed to keep on file and make available for Commission review the results of pressure tank and ground storage tank inspections, in violation of 30 Tex. Admin. Code § 290.46(f)(3)(D)(ii) and Agreed Order No. 2001-1346-PWS-E.
- 5. As evidenced by Finding of Fact No. 5, Marshall Creek failed to keep on file and make available for Commission review a well plugging report, in violation of 30 Tex. ADMIN. CODE § 290.46(u) and Agreed Order No. 2001-1346-PWS-E.

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- 6. As evidenced by Finding of Fact No. 6, Marshall Creek failed to keep on file and make available for Commission review well completion data, in violation of 30 Tex. ADMIN. CODE § 290.46(n)(3) and Agreed Order No. 2001-1346-PWS-E.
- 7. As evidenced by Finding of Fact No. 7, Marshall Creek failed to keep on file and make available for Commission review a sanitary control easement, in violation of 30 Tex. ADMIN. CODE § 290.41(c)(1)(F) and Agreed Order No. 2001-1346-PWS-E.
- 8. As evidenced by Finding of Fact No. 8, Marshall Creek failed to provide a well production capacity of 0.6 gpm per connection, in violation of 30 Tex. ADMIN. CODE § 290.45(b)(1)(C)(i), Agreed Order No. 2001-1346-PWS-E and Tex. Health & Safety Code § 341.0315(c).
- 9. As evidenced by Finding of Fact No. 9, Marshall Creek failed to extend the well casing to a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface, in violation of 30 Tex. ADMIN. CODE § 290.41(c)(3)(B).
- 10. As evidenced by Finding of Fact No. 10, Marshall Creek failed to provide a concrete sealing block that extends at least three feet from the exterior well casing in all directions, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(J).
- 11. As evidenced by Finding of Fact No. 11, Marshall Creek failed to provide the well with a casing vent with an opening that is covered with a 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well, in violation of 30 Tex. ADMIN. CODE § 290.41(c)(3)(K).
- 12. As evidenced by Finding of Fact No. 12, Marshall Creek failed to ensure that maintenance and housekeeping practices are implemented to ensure good working condition and general appearance of the system's facilities and equipment, in violation of 30 Tex. ADMIN. CODE § 290.46(m) and (m)(1)(B).
- 13. As evidenced by Finding of Fact No. 13, Marshall Creek failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 Tex. Admin. Code § 290.46(i).
- 14. As evidenced by Finding of Fact No. 16, Marshall Creek filed for bankruptcy relief pursuant to Chapter 9 of the United States Code. The Automatic Stay imposed by the Bankruptcy Code (specifically, 11 USC § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations. So long as the Debtor's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where

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the Debtor's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General.

- 15. Pursuant to Tex. Health & Safety Code § 341.049, the Commission has the authority to assess an administrative penalty against Marshall Creek for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
- 16. An administrative penalty in the amount of Thirteen Thousand Three Hundred Thirteen Dollars (\$13,313) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in Tex. Health & Safety Code § 341.049(b).

III. ORDERING PROVISIONS

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

1. Marshall Creek is assessed an administrative penalty in the amount of Thirteen Thousand Three Hundred Thirteen Dollars (\$13,313), as set forth in Section II, Paragraph 16 above, for violations of TCEQ rules and state statutes. The assessment of this administrative penalty and Marshall Creek's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments may be made payable to "TCEQ" and sent with the notation "Re: Town of Marshall Creek, Docket No. 2006-0748-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. Marshall Creek shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit a monitoring plan that identifies all sampling locations, sampling frequency, and specify the analytical procedures and laboratories that the system will use to comply with monitoring requirements;
 - ii. Submit an up-to-date map of the distribution that shows the location of valves and mains;
 - iii. Submit copies of annual pressure tank and ground storage tank inspections and maintain the results of the inspections at the Facility;

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- iv. Submit a copy of the plugging report for well No. G0610056A;
- v. Submit well completion data for well No. GG0610056B;
- vi. Provide a copy of the sanitary easement for well No. G0610056B; and
- vii. Extend the well casing to a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.d, and include detailed supporting documentation including photographs, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 90 days after the effective date of this Agreed Order, provide a well production capacity of 0.6 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, and/or other records to demonstrate compliance with Ordering Provision No. 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."

Submit all correspondence, reports, and documentation required by these Ordering Provisions 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:

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Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth, Texas 76118-3087

- 3. The provisions of this Agreed Order shall apply to and be binding upon Marshall Creek. Marshall Creek is ordered to give notice of this 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 Marshall Creek shall be made in writing to the Executive Director. Extensions are not effective until Marshall Creek receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Marshall Creek if the Executive Director determines that Marshall Creek has not complied with one or more of the terms or conditions in this Agreed Order.
- 6. 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.
- 7. This Agreed Order, issued by the Commission, shall not be admissible against Marshall Creek 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.
- 8. 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.
- 9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 Tex. ADMIN. CODE § 70.10(b) and Tex. Gov't Code § 2001.142.

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Town of Marshall Creek

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| For the Commission | |
|---|--|
| Sent | 3/27/07 |
| For the Executive Director | Date |
| Creek. I am authorized to agree to the attached Agre | ached Agreed Order in the matter of Town of Marshall ed Order on behalf of Town of Marshall Creek, and do acknowledge that the TCEQ, in accepting payment for presentation. |
| rights, including, but not limited to, the right to form notice of an evidentiary hearing, the right to an evid | or, Town of Marshall Creek waives certain procedural all notice of violations addressed by this Agreed Order, lentiary hearing, and the right to appeal. I agree to the hearing. This Agreed Order constitutes full and final at forth in this Agreed Order. |
| I also understand that my failure to comply with the failure to timely pay the penalty amount, may result | e Ordering Provisions, if any, in this order and/or my |
| A negative impact on my compliance histor | 'y ; |
| Greater scrutiny of any permit applications Referral of this case to the Attorney General penalties, and/or attorney fees, or to | al's Office for contempt, injunctive relief, additional |
| Increased penalties in any future enforcement Automatic referral to the Attorney General me; and | ent actions against me; 's Office of any future enforcement actions against |
| TCEQ seeking other relief as authorized by | |
| In addition, any falsification of any compliance doc | cuments may result in criminal prosecution. |
| Slepher whits | 10.31.06 |
| Signature | Date |
| Stephen White | 10.31.06 Date Mayor |
| Name (printed or typed) | Title |
| Authorized Representative | |

Instructions: Send the original, signed Agreed Order to the Financial Administration Division, Revenues Section at the address in Ordering Provision 1 of this Agreed Order.

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