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 ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY 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		

SITE WHERE VIOLATION(S) OCCURRED: Town of Marshall Creek public water supply, northeast of State Highway 114 and US 377 Junction, Denton County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Sandy VanCleave, Enforcement Division, MC 219, (512) 239-2670; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
TCEQ Field Investigator: Mr. Brandon Cooper, DFW Regional Office, MC R-04, (817) 588-5800
Respondent: The Honorable Stephen White, Mayor, Town of Marshall Creek, P.O. Box 1070, Roanoke, Texas 76262
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint ___ Routine _X_ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** October 4, 2005 **Date of NOE Relating to this Case:** December 1, 2005 (NOE) **Background Facts:** This investigation was conducted to determine compliance with Agreed Order Docket No. 2001-1346-PWS-E and applicable public water supply requirements. 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. **WATER** 1) Failed to keep on file and make available for Commission review a monitoring plan [30 TEX. ADMIN. CODE § 290.121(b) and Agreed Order No. 2001-1346-PWS-E]. 2) 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-PWS-E]. 3) Failed to keep on file and make available for Commission review the results of pressure tank and ground storage tank inspections [30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(ii) and Agreed Order No. 2001-1346-PWS-E]. 4) Failed to keep on file and make available for Commission review a well plugging report [30 TEX. ADMIN. CODE § 290.46(u) and Agreed Order No. 2001-1346-PWS-E]. 5) Failed to keep on file and make available for Commission review well completion data [30 TEX. ADMIN. CODE § 290.46(n)(3) and Agreed Order No. 2001-1346-PWS-E].	**Total Assessed:** $13,313 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $0 The Respondent filed for bankruptcy; therefore, the TCEQ is not collecting any penalty amount. **Site Compliance History Classification:** __High ___Avg. __Poor **Person Compliance History Classification:** __High _X_Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002 **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.	**Corrective Actions Taken:** 1) 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. **Ordering Provisions:** 2) The Order will require the Respondent to: 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; iv. Submit a copy of the plugging report for well No. G0610056A;

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.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	05-Jun-2006				
PCW	24-Aug-2006	Screening	09-Jun-2006	EPA Due	31-Aug-2006

RESPONDENT/FACILITY INFORMATION

Respondent	Town of Marshall Creek		
Reg. Ent. Ref. No.	RN101201952		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	5485	No. of Violations	10
Docket No.	2006-0748-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Sandy VanCleave
Multi-Media		EC's Team	Order Compliance
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $10,650

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 25% Enhancement *Subtotals 2, 3, & 7* $2,663

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

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	*(mark with a small x)*

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

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$2,395
Approx. Cost of Compliance	$9,400

SUM OF SUBTOTALS 1-7 Final Subtotal $13,313

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $13,313

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $13,313

DEFERRAL 0% Reduction Adjustment $0

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: No deferral is recommended for a Findings Order.

PAYABLE PENALTY $13,313

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

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%
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	1	25%
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 judgements 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*	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) **25%**

>> **Repeat Violator (Subtotal 3)**

No ***Adjustment Percentage (Subtotal 3)*** **0%**

>> **Compliance History *Person* Classification (Subtotal 7)**

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) **25%**

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 1

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2001-1346-PWS-E, Ordering Provision Nos. 3.a.i and 3.c.iv. and 30 Tex. Admin. Code §§ 290.121(b) and 290.46(n)(2)

Secondary Rule Cite(s)

Violation Description Failed to 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 requirements and failed to maintain an accurate up-to-date map of the distribution system. Specifically, during the October 4, 2005 investigation, the facility failed to provide for review a monitoring plan and the up-to-date map of the distribution system that was provided did not show location of the valves and mains.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: The Respondent failed to comply with 70 percent of the rule.

Adjustment -$900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

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

Economic Benefit (EB) for this violation

Estimated EB Amount $43

Statutory Limit Test

Violation Final Penalty Total $125

This violation Final Assessed Penalty (adjusted for limits) $125

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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	$200	12-Dec-2002	31-Mar-2007	4.3	$43	n/a	$43
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 a monitoring plan and an up-to-date map of the distribution system. Date required is the Agreed Order Docket No. 2001-1346-PWS-E effective date and the final date is 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: $200

TOTAL $43

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 2

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2001-1346-PWS-E, Ordering Provision Nos. 3.c.i and 3.c.ii. and 30 Tex. Admin. Code § 290.46(f)(3)(D)(ii)

Secondary Rule Cite(s)

Violation Description Failed to keep on file and make available for Commission review the results of pressure tank and ground storage tank inspections as required by § 290.46(m)(1)(A) and (B). Specifically, during the October 4, 2005 investigation, the facility failed to provide the results of annual pressure tank and ground storage tank inspections.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

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 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

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

Economic Benefit (EB) for this violation

Estimated EB Amount $452

Statutory Limit Test

Violation Final Penalty Total $125

This violation Final Assessed Penalty (adjusted for limits) $125

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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							
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	$100	12-Dec-2002	31-Mar-2007	4.3	$22	$430	$452
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	Estimated cost to maintain copies of pressure tank and ground storage tank inspections. Date required is the Agreed Order Docket No. 2001-1346-PWS-E effective date and the final date is the estimated date of compliance.						

Approx. Cost of Compliance $100

TOTAL $452

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 3

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2001-1346-PWS-E, Ordering Provision Nos. 3.g.i and 3.c.iii. and 30 Tex. Admin. Code §§ 290.46(u) and 290.46(n)(3)

Secondary Rule Cite(s)

Violation Description Failed to keep on file and make available for Commission review a plugging report for well No. G0610056A and well completion data for Well No. G0610056B. Specifically, during the October 4, 2005 investigation, the facility failed to provide a plugging report completed by a licensed well driller and well completion data for the operational well.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

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 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

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

Economic Benefit (EB) for this violation

Estimated EB Amount $43

Statutory Limit Test

Violation Final Penalty Total $125

This violation Final Assessed Penalty (adjusted for limits) $125

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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	$200	12-Dec-2002	31-Mar-2007	4.3	$43	n/a	$43
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 a copy of the well plugging report and well completion data. Date required is the Agreed Order Docket No. 2001-1346-PWS-E effective date and the final date is 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: $200

TOTAL: $43

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 4

Primary Rule Cite(s) 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)

Secondary Rule Cite(s)

Violation Description Failed to keep on file and make available for Commission review a sanitary control easement for Well No. G0610056B. Specifically, during the October 4, 2005 investigation, the facility failed to provide a copy of a sanitary control easement for the well.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

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 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

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

Economic Benefit (EB) for this violation

Estimated EB Amount $22

Statutory Limit Test

Violation Final Penalty Total $125

This violation Final Assessed Penalty (adjusted for limits) $125

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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	$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	$0

Notes for DELAYED costs: Estimated cost to provide a copy of a sanitary control easement for the well. Date required is the Agreed Order Docket No. 2001-1346-PWS-E effective date and the final date is 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: $100

TOTAL $22

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 5

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2001-1346-PWS-E, Ordering Provision No. 3.e.ii and 30 Tex. Admin. Code § 290.45(b)(1)(C)(i)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a well production capacity of 0.6 gallons per minute (gpm) per connection. Specifically, during the October 4, 2005 investigation it was documented that the well production was 42 gpm. Based on the number of connections, the system is required to provide a well production of 90.6 gpm.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Inadequate well capacity (54% deficient) could result in water outages and back flow problems and may allow a significant amount of contaminants to enter the water supply which would exceed levels that are protective of human health.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events 38

mark only one use a small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $9,500

38 monthly events are recommended based on the Order effective date of December 12, 2002, to the bankruptcy filing date, January 22, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,681

Statutory Limit Test

Violation Final Penalty Total $11,875

This violation Final Assessed Penalty (adjusted for limits) $11,875

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$5,000	12-Dec-2002	30-Sep-2007	4.8	$80	$1,601	$1,681
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 a well capacity of 0.6 gpm per connection. Date required is the Agreed Order Docket No. 2001-1346-PWS-E effective date and the final date is 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 $1,681

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 6

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, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor may allow the well to be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment -$900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 2

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $200

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

Estimated EB Amount $52

Statutory Limit Test

Violation Final Penalty Total $250

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

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	04-Oct-2005	31-Mar-2007	1.5	$2	$50	$52
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 extend the well casing 18 inches above the elevation of the natural ground surface. Date required is the investigation date. Final date is 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: $500

TOTAL $52

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 7

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(J)

Secondary Rule Cite(s)

Violation Description 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. 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**

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: A cracked sealing block could expose human health to significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment -$900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 2

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $200

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

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $250

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

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				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: Estimated cost to repair the cracked sealing block around the well. Date required is the investigation date. Final date is date the violation was corrected.

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: $200

TOTAL $7

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 8

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(K)

Secondary Rule Cite(s)

Violation Description Failed to provide the well with a casing vent with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well. Specifically, during the investigation, it was documented that the casing vent on well No. G0610056B was facing upright instead of downward.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failure to properly position the casing vent for the well could expose the water supply to a significant amount of pollutants which would not exceed levels that are protective of human health.

Adjustment -$900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 2

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $200

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

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $250

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

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$100	04-Oct-2005	23-Mar-2006	0.5	$0	$3	$3
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 properly position the well casing vent. Date required is the investigation date. Final date is the date the violation was corrected.

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: $100

TOTAL $3

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 9

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(m) and (m)(1)(B)

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, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

OR

Percent 5%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment -$950

Base Penalty Subtotal $50

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $50

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $82

Statutory Limit Test

Violation Final Penalty Total $63

This violation Final Assessed Penalty (adjusted for limits) $63

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$2,500	04-Oct-2005	23-Mar-2006	0.5	$4	$78	$82
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 repair the door to the pump house and repaint the pressure tank. Date required is the investigation date. Final date is the date the violations were corrected.

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: $2,500

TOTAL $82

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 10

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(i)

Secondary Rule Cite(s)

Violation Description 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. 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.

Base Penalty $1,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

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 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended based on documentation of the violation during the October 4, 2005 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $12

Statutory Limit Test

Violation Final Penalty Total $125

This violation Final Assessed Penalty (adjusted for limits) $125

Economic Benefit Worksheet

Respondent Town of Marshall Creek
Case ID No. 5485
Reg. Ent. Reference No. RN101201952
Media [Statute] Public Water Supply
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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	$500	04-Oct-2005	23-Mar-2006	0.5	$12	n/a	$12
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 adopt a plumbing ordinance, regulation or service agreement. Date required is the investigation date. Final date is the estimated date a plumbing ordinance was submitted.

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 $12

Compliance History

Customer/Respondent/Owner-Operator:	CN600623292	TOWN OF MARSHALL CREEK	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101201952	TOWN OF MARSHALL CREEK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0610056 0610056	
Location:	NE OF SH 114 AND US 377 JUNCTION			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	June 16, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 16, 2001 to June 16, 2006			

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

Name: Sandy VanCleave Phone: (512) 239-2670

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.

Effective Date: 12/12/2002 ADMINORDER 2001-1346-PWS-E

Classification: Moderate
Citation: 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
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Violation of: §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
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
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
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failure to conduct annual pressure tank inspections.

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

Citation: 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: Failure 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

Citation: 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 (281101)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**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 Director 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.

11. 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.

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.

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

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;

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:

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 3/27/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Town of Marshall Creek. I am authorized to agree to the attached Agreed Order on behalf of Town of Marshall Creek, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Town of Marshall Creek waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Stephen White 10.31.06
Signature Date

Stephen White Mayor
Name (printed or typed) Title
Authorized Representative
Town of Marshall Creek

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.