EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1978-PWS-E **TCEQ ID:** RN101441285 **CASE NO.:** 31743

RESPONDENT NAME: Dialville Oakland Water Supply Corporation

ORDER TYPE:

X 1660 AGREED ORDER	__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: Dialville Oakland Water Supply Corporation, 0.2 mile west of Farm-to-Market Road 347 on County Road 1724, Cherokee County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: __X__ Yes ___ 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 March 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Section I, MC R-13, (210) 403-4033; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Mr. Kevin Glanton, Tyler Regional Office, MC R-05, (903) 535-5133

Respondent: Mr. Charles Peters, President/Registered Agent, Dialville Oakland Water Supply Corporation, P.O. Box 1029, Rusk, Texas 75785-7029

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 _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** August 17, 2006 **Date of NOE Relating to this Case:** October 23, 2006 (NOE) **Background Facts:** This was a routine investigation. Three violations were documented. **WATER** 1) Failed to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. 2) Failed to maintain the storage tanks in strict accordance with current American Water Works Association ("AWWA") Standards [30 TEX. ADMIN. CODE § 290.43(c)(8)]. 3) Failed to meet the minimum well capacity requirement of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].	**Total Assessed:** $1,103 **Total Deferred:** $221 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $882 **Site Compliance History Classification:** __High __Avg. __Poor **Person Compliance History Classification:** __High __Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 60 days after the effective date of this Agreed Order, make repairs to the storage tanks and begin maintaining the tanks in strict accordance with current AWWA standards; b. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.; c. Within 90 days after the effective date of this Agreed Order: i. Provide a total storage capacity of 200 gallons per connection; and ii. Provide a minimum well 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, receipts, and/or other records to demonstrate compliance with Ordering Provision c.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES **Assigned** 30-Oct-2006 **PCW** 14-Nov-2006 **Screening** 14-Nov-2006 **EPA Due**

RESPONDENT/FACILITY INFORMATION

Respondent Dialville Oakland Water Supply Corporation
Reg. Ent. Ref. No. RN101441285
Facility/Site Region 5-Tyler **Major/Minor Source** Minor Source

CASE INFORMATION

Enf./Case ID No. 31743 **No. of Violations** 3
Docket No. 2006-1978-PWS-E **Order Type** 1660
Media Program(s) Public Water Supply **Enf. Coordinator** Epifanio Villarreal
Multi-Media **EC's Team** Enforcement Team 2
Admin. Penalty $ Limit Minimum $50 **Maximum** $1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) ***Subtotal 1*** $1,050

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5%** Enhancement ***Subtotals 2, 3, & 7*** $53

Notes: The penalty enhancement is due one prior Notice of Violation containing a violation that is the same as or similar to the violations in the current enforcement action.

Culpability No **0%** Enhancement ***Subtotal 4*** $0

Notes: The respondent does not meet 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 $1,145
Approx. Cost of Compliance $16,000

SUM OF SUBTOTALS 1-7 **Final Subtotal** $1,103

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** $0

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

Notes:

Final Penalty Amount $1,103

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $1,103

DEFERRAL 20% Reduction **Adjustment** -$221

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $882

Screening Date 14-Nov-2006 **Docket No.** 2006-1978-PWS-E **PCW**
Respondent Dialville Oakland Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 31743 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101441285
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

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)*	1	5%
	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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of 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) **5%**

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

N/A <

Adjustment Percentage (Subtotal 3) **0%**

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

N/A <

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes The penalty enhancement is due one prior Notice of Violation containing a violation that is the same as or similar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **5%**

Screening Date 14-Nov-2006 **Docket No.** 2006-1978-PWS-E **PCW**

Respondent Dialville Oakland Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 31743 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101441285

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(ii)

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

Violation Description Failure to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the investigation, the investigator noted that the total storage capacity was 40,000 gallons. Based on the number of connections, the system is required to provide a total storage capacity of 55,400 gallons, indicating a 28% deficiency.

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: Without sufficient storage capacity, customers of the water system could experience water outages and the system's ability to provide a safe and adequate supply of water to the customers could be impaired.

Adjustment -$900

Base Penalty Subtotal $100

Violation Events

Number of Violation Events 1

mark only one use a small x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $100

One quarterly event is recommended from the date of the investigation, August 17, 2006 to the date of screening, November 14, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $364

Statutory Limit Test

Violation Final Penalty Total $105

This violation Final Assessed Penalty (adjusted for limits) $105

Economic Benefit Worksheet

Respondent Dialville Oakland Water Supply Corporation
Case ID No. 31743
Reg. Ent. Reference No. RN101441285
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	$5,000	17-Aug-2006	01-Sep-2007	1.0	$17	$347	$364
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs The delayed cost includes the amount to create a total storage capacity of 200 gallons per connection at the facility, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $5,000

TOTAL $364

Screening Date 14-Nov-2006 **Docket No.** 2006-1978-PWS-E **PCW**

Respondent Dialville Oakland Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 31743 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101441285

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)

Secondary Rule Cite(s)

Violation Description Failure to maintain the facility's two storage tanks in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was observed that the storage tanks had roof coating failure, interior corrosion, pitting, and corrosion around the roof hatch of one storage tank.

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: Failing to maintain the storage tanks could result in customers of the water supply being exposed to insignificant amounts 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 (one per tank) are recommended from the date of the investigation, August 17, 2006 to the date of screening, November 14, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $52

Statutory Limit Test

Violation Final Penalty Total $210

This violation Final Assessed Penalty (adjusted for limits) $210

Economic Benefit Worksheet

Respondent Dialville Oakland Water Supply Corporation
Case ID No. 31743
Reg. Ent. Reference No. RN101441285
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)	$1,000	17-Aug-2006	01-Sep-2007	1.0	$52	n/a	$52

Notes for DELAYED costs The delayed cost includes the amount for the storage tanks to be meet current AWWA standards, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $1,000

TOTAL $52

Screening Date 14-Nov-2006 **Docket No.** 2006-1978-PWS-E **PCW**

Respondent Dialville Oakland Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 31743 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN101441285

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(i)

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

Violation Description Failure to meet the minimum well capacity requirement of 0.6 gallons per minute ("gpm") per connection. Specifically, the water system has 277 connections and must provide a minimum well production of 168 gpm. However, only 80 gpm are currently provided, which is approximately 52% deficient.

Base Penalty $1,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Without sufficient well capacity, customers of the water system could experience water outages and the system's ability to provide a safe and adequate water supply could be impaired.

Adjustment -$750

Base Penalty Subtotal $250

Violation Events

Number of Violation Events 3

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

Violation Base Penalty $750

Three monthly events are recommended from the date of the investigation, August 17, 2006 to the date of screening November 14, 2006.

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

Estimated EB Amount $729 **Violation Final Penalty Total** $788

This violation Final Assessed Penalty (adjusted for limits) $788

Economic Benefit Worksheet

Respondent Dialville Oakland Water Supply Corporation
Case ID No. 31743
Reg. Ent. Reference No. RN101441285
Media [Statute] Public Water Supply
Violation No. 3

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)	$10,000	17-Aug-2006	01-Sep-2007	1.0	$35	$694	$729
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

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

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $10,000

TOTAL $729

Compliance History

Customer/Respondent/Owner-Operator:	CN600654628	DialVille Oakland Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101441285	DIALVILLE OAKLAND WSC	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0370017
	WATER LICENSING	LICENSE	0370017

Location: 0.2 miles west of Farm-to Market 347 on County Road 1724, Cherokee County

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: November 14, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 14, 2001 to November 14, 2006

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

Name: Epi Villarreal Phone: 210-403-4033

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

03/03/2003 (20657)

10/23/2006 (482030)

12/30/2002 (19969)

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

Date: 03/04/2003 (20657)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(ii)

5A THC Chapter 341, SubChapter A 341.0315(a)(1)

Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: a total storage capacity of 200 gallons per connection.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING DIALVILLE OAKLAND WATER SUPPLY CORPORATION RN101441285	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1978-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Dialville Oakland Water Supply Corporation ("Dialville Oakland WSC") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Dialville Oakland WSC appear before the Commission and together stipulate that:

1. Dialville Oakland WSC owns and operates a public water supply located 0.2 mile west of Farm-to-Market Road 347 on County Road 1724 in Cherokee County, Texas (the "Facility") that has approximately 277 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Commission and Dialville Oakland WSC agree that the Commission has jurisdiction to enter this Agreed Order, and that Dialville Oakland WSC is subject to the Commission's jurisdiction.

3. Dialville Oakland WSC received notice of the violations alleged in Section II ("Allegations") dated October 23, 2006.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Dialville Oakland WSC of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of One Thousand One Hundred Three Dollars ($1,103) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Dialville Oakland WSC has paid Eight Hundred Eighty-Two Dollars ($882) of the administrative penalty and Two Hundred Twenty-One Dollars ($221) is deferred contingent upon Dialville Oakland WSC's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Dialville Oakland WSC fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Dialville Oakland WSC to pay all or part of the deferred penalty.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and Dialville Oakland WSC have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Dialville Oakland WSC has not complied with one or more of the terms or conditions in this Agreed Order.

9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Dialville Oakland WSC is alleged to have:

1. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on August 17, 2006.

2. Failed to maintain the storage tanks in strict accordance with current American Water Works Association ("AWWA") Standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8), as documented during an investigation conducted on August 17, 2006.

3. Failed to meet the minimum well capacity requirement of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on August 17, 2006.

III. DENIALS

Dialville Oakland WSC generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Dialville Oakland WSC pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Dialville Oakland WSC's compliance with all the terms and conditions set forth in this Agreed Order resolve

only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Dialville Oakland Water Supply Corporation, Docket No. 2006-1978-PWS-E" to:

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

2. It is further ordered that Dialville Oakland WSC shall undertake the following technical requirements:

a. Within 60 days after the effective date of this Agreed Order, make repairs to the storage tanks and begin maintaining the tanks in strict accordance with current AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43;

b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.d., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.;

c. Within 90 days after the effective date of this Agreed Order:

i. Provide a total storage capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and

ii. Provide a minimum well capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE 290.45;

d. Within 105 days after the effective date of this Agreed Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c. The written certification of compliance shall be notarized by a State of Texas Notary Public and include the following certification language:

> "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon Dialville Oakland WSC. Dialville Oakland WSC is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Dialville Oakland WSC shall be made in writing to the Executive Director. Extensions are not effective until Dialville Oakland WSC receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Dialville Oakland WSC in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Dialville Oakland WSC, or three days after the date on which the Commission mails notice of the Order to Dialville Oakland WSC, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 4/12/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that 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.

Charles R Peters 1-12-07
Signature Date

Charles R. Peters President
Name (Printed or typed) Title
Authorized Representative of
Dialville Oakland Water Supply Corporation

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