

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2005-0962-MLM-E TCEQ ID NO: RN102918794 ENF ID: 25272
RESPONDENT NAME: MACK POOL DBA A&P WATER COMPANY

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> DRY CLEANER REGISTRATION	<input checked="" type="checkbox"/> WATER RIGHTS

SITE WHERE VIOLATION(S) OCCURRED: 3397 U.S. Highway 259 South, Henderson, Rusk County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There has been one complaint. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: One complaint has been received, but the complainant has not indicated a desire to protest this action or speak at Agenda. 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 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Dana Shuler, Enforcement Division, Section IV, MC 128, (512) 239-2505

TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174

Respondent: Mr. Mack Pool, Owner, A&P Water Company, P.O. Box 1416, Henderson, Texas 75653

Respondent's Attorney: Not represented by counsel.

RESPONDENT'S NAME: MACK POOL DBA A&P WATER COMPANY
DOCKET NO.: 2005-0962-MLM-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 19, 2005</p> <p>Dates of Investigations Relating to this Case: January 28, 2005 and December 1, 2005</p> <p>Dates of NOV(s)/NOE(s) Relating to this Case: March 28, 2005 (NOE) and January 5, 2006 (NOE)</p> <p>Background Facts:</p> <p>The EDP RP was filed on December 20, 2005, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDP RP on December 28, 2005, as evidenced by the signature on the card. The Respondent failed to respond to the EDP RP.</p> <p>The EDFARP was filed on March 30, 2006, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDFARP on April 7, 2006, as evidenced by the signature on the card. The Respondent failed to respond to the EDFARP.</p> <p>The EDSARP was filed on September 25, 2006, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDSARP on September 29, 2006, as evidenced by the signature on the card. The Respondent failed to respond to the EDSARP.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>MLM:</p> <p>(1) Failed to adopt an adequate plumbing ordinance, regulations, or service agreement, with provisions for proper enforcement to prevent cross-connections and other unacceptable plumbing practices [30 TEX. ADMIN. CODE § 290.46(i)].</p> <p>(2) Failed to complete a customer service inspection certificate prior to providing continuous water service to new connections [30 TEX. ADMIN. CODE § 290.46(j)].</p> <p>(3) Failed to ensure that the System, which serves fewer than 250 connections and uses purchased treated water, was at all times operated under the direct supervision of a water works operator who held an applicable, valid "Class D" or higher operator's license [30 TEX. ADMIN. CODE § 290.46(e)(3)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)].</p>	<p>Total Assessed: \$6,600</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$6,600</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>(1) Within 30 days:</p> <p>(a) 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;</p> <p>(b) Complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service which he has reason to believe that cross-connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities;</p> <p>(c) Ensure that the System is at all times operated under the direct supervision of a certified water works operator who holds an applicable, valid "Class D" or higher license issued by the Executive Director;</p> <p>(d) Create and maintain a record of water works operation and maintenance activities, an accurate and up-to-date chemical and microbiological monitoring plan, and begin submitting periodic operating reports and daily records or a monthly summary of the work-performed and the number of hours worked by each part time operator;</p> <p>(e) Ensure that each of the System's ground tanks are inspected at least annually by water system personnel or a contracted inspection service;</p> <p>(f) Ensure that each of the System's pressure tanks are inspected at least annually by water system personnel or a contracted inspection service; and</p> <p>(g) Begin collecting routine bacteriological samples from the public water supply and submit those samples for bacteriological analysis.</p> <p>(2) Within 45 days, prepare and submit to the Commission a drought contingency plan for the System.</p> <p>(3) Within 60 days, demonstrate compliance by submitting written certification.</p>

RESPONDENT'S NAME: MACK POOL DBA A&P WATER COMPANY
DOCKET NO.: 2005-0962-MLM-E

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>(4) Failed to maintain operating records which report: the amount of chemicals used; the volume of water treated; the date, location, and nature of water quality; pressure or outage complaints received and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the dates that storage tanks and other facilities were cleaned; the maintenance records for water system equipment and facilities; and a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of 30 TEX. ADMIN. CODE § 290.46(e) (relating to licensing requirement of water works operators). Failed to maintain: a record of water works operation and maintenance activities, an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, a sample siting plan for collection of bacteriological samples, and to develop and maintain an up-to-date system monitoring plan [30 TEX. ADMIN. CODE §§ 290.46(f) and (n)(2), 290.109(c)(1), and 290.121].</p> <p>(5) Failed to ensure that each of the System's ground tanks were inspected at least annually by water system personnel or a contracted inspection service to determine whether: the vents were in place and properly screened; the roof hatches closed and locked; flap valves and gasketing provided adequate protection against insects, rodents, and other vermin; the interior and exterior coating systems were continuing to provide adequate protection to all metal surfaces; and the tank remained in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].</p> <p>(6) Failed to ensure that each of the System's pressure tanks were inspected at least annually by water system personnel or a contracted inspection service to determine whether: the pressure release device and pressure gauge were working properly, the air-water ratio was being maintained at the proper level, the exterior coating systems were continuing to provide adequate protection to all metal surfaces, and the tank remained in watertight condition, and failed to equip the tank with some sanitary means of determining the air-to-water ratio [30 TEX. ADMIN. CODE §§ 290.43(d)(3) and 290.46(m)(1)(B)].</p> <p>(7) Failed to have a drought contingency plan for the System [30 TEX. ADMIN. CODE § 288.20].</p> <p>(8) Failed to, at least once per month, collect and submit for bacteriological analysis routine bacteriological samples taken from the distribution system, and failed to provide public notice of the monitoring violations. Specifically, samples were not collected for the months of January through November, 2005, and public notice was not provided for the months of July through November, 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and (iii), 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>		



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	04-Apr-2005			
	PCW	17-Mar-2006	Screening	11-Apr-2005	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Mack Pool dba A & P Water Company
Reg. Ent. Ref. No.	RN102918794
Facility/Site Region	5-Tyler
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	25272	No. of Violations	7
Docket No.	2005-0962-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Dana Shuler
Multi-Media	Water Rights	EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,800

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** \$290

Notes: Respondent received an enhancement for one (1) NOV for the same or similar violations.

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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

Notes: Respondent is not yet compliant.

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

Total EB Amounts	\$1,458	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$9,770	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$6,090

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 \$6,090

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$6,090

DEFERRAL **Adjustment** \$0

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

Notes: Deferral not offered because Respondent did not settle in 60 days.

PAYABLE PENALTY \$6,090

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Screening Date 11-Apr-2005 **Docket No.** 2005-0962-MLM-E **PCW**

Respondent Mack Pool dba A & P Water Company *Policy Revision 2 (September 2002)*

Case ID No. 25272 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Screening Date 11-Apr-2005 revised gpw Docket No. 2005-0962-MLM-E PCW

Respondent Mack Pool dba A & P Water Company Policy Revision 2 (September 2002)

Case ID No. 25272 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Mack Pool dba A & P Water Company
 Case ID No: 25272
 Reg. Ent. Reference No: RN102918794
 Media [Statute]: Public Water Supply
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	14-Mar-2003	01-Mar-2006	3.0	\$15	n/a	\$15
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 an adequate plumbing ordinance, regulations or a service agreement with provisions for proper enforcement, from the initial date of non-compliance 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 **TOTAL**

Screening Date 11-Apr-2005 revised gpw Docket No. 2005-0962-MLM-E PCW

Respondent Mack Pool dba A & P Water Company Policy Revision 2 (September 2002)

Case ID No. 25272 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Mack Pool dba A & P Water Company
 Case ID No. 25272
 Reg. Ent. Reference No. RN102918794
 Media [Statute] Public Water Supply
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	14-Mar-2003	01-Mar-2006	3.0	\$15	n/a	\$15
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 complete customer service inspection certifications prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private facilities, from the initial date of non-compliance 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 **TOTAL**

Screening Date 11-Apr-2005

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Docket No. 2005-0962-MLM-E

PCW

Respondent Mack Pool dba A & P Water Company

Policy Revision 2 (September 2002)

Case ID No. 25272

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

30 Tex. Admin. Code § 290.46(e)(3)(A) and Tex. Health & Safety Code § 341.033(a)

Violation Description

Failure by the regulated entity, which serves fewer than 250 connections and only uses groundwater or purchased treated water, to be under the supervision of a competent water works operator holding a valid Class "D" or higher operator's license, as documented during an investigation on January 28, 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Failure to operate the system under the supervision of an adequately trained and appropriately licensed water works operator may result in poor plant operation and expose the public to significant amounts of pollutants which would exceed levels protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Eight monthly events are recommended, from the investigation date of January 28, 2005 to the settlement deadline date of September 24, 2005.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Mack Pool dba A & P Water Company
 Case ID No. 25272
 Reg. Ent. Reference No. RN102918794
 Media [Statute] Public Water Supply
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$8,000	14-Mar-2003	01-Mar-2006	3.0	\$1,187	n/a	\$1,187

Notes for DELAYED costs: Estimated cost (at \$250 per month) to be under the direct supervision of a licensed water works operator, from the initial date of non-compliance 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 **\$8,000** **TOTAL \$1,187**

Screening Date 11-Apr-2005 revised cpw **Docket No.** 2005-0962-MLM-E **PCW**
Respondent Mack Pool dba A & P Water Company Policy Revision 2 (September 2002)
Case ID No. 25272 PCW Revision May 19, 2005
Reg. Ent. Reference No. RN102918794
Media [Statute] Public Water Supply
Enf. Coordinator Dana Shuler
Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
		<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="X"/>

Violation Base Penalty

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

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Mack Pool dba A & P Water Company
 Case ID No. 25272
 Reg. Ent. Reference No. RN102918794
 Media [Statute] Public Water Supply
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	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	\$300	14-Mar-2003	01-Mar-2006	3.0	\$45	n/a	\$45
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 maintain the public water system's operating records, from the initial date of non-compliance to the estimated date of compliance, to maintain and make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, and to maintain a sample siting plan for collection of bacteriological samples and to develop and to maintain an up to date system monitoring plan, from the initial date of non-compliance 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 **TOTAL**

Screening Date 11-Apr-2005 ^{revised qpw} Docket No. 2005-0962-MLM-E **PCW**

Respondent Mack Pool dba A & P Water Company Policy Revision 2 (September 2002)

Case ID No. 25272 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to inspect the ground storage tank at least annually, to determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gaskets provide adequate protection against insects, rodents, and other vermin, and that the interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces and that the tank remains in a watertight condition, as documented during an investigation on January 28, 2005.

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Failure to inspect the storage tanks at least annually could result in tank failure and compromise the system's ability to provide an adequate amount of water.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One annual event is recommended.

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

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Mack Pool dba A & P Water Company
 Case ID No: 25272
 Reg. Ent. Reference No: RN102918794
 Media [Statute]: Public Water Supply
 Violation No: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	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				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)	\$100	14-Mar-2003	01-Mar-2006	3.0	\$15	n/a	\$15

Notes for DELAYED costs: Estimated cost to inspect the ground storage tank at least annually, from the initial date of non-compliance 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

TOTAL

Screening Date 11-Apr-2005

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Docket No. 2005-0962-MLM-E

PCW

Respondent Mack Pool dba A & P Water Company

Policy Revision 2 (September 2002)

Case ID No. 25272

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to inspect the pressure tank at least annually, to determine that the pressure release device and pressure gauge are working properly, the air-water ratio is being maintained at the proper level, the exterior coating systems are continuing to provide adequate protection to all metal surfaces, and that the tank remains in a watertight condition, and failure to equip the pressure tank with some sanitary means of determining the air-to-water ratio, as documented during an investigation on January 28, 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Failure to inspect the pressure tank at least annually could result in tank failure and injury of the operator or other persons in the vicinity of the tank.
 Failure to equip the pressure tank with some sanitary means of determining the air-to-water ratio could expose water being supplied for human consumption to significant amounts of pollution which would exceed levels protective of human health.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Mack Pool dba A & P Water Company
 Case ID No. 25272
 Reg. Ent. Reference No. RN102918794
 Media [Statute] Public Water Supply
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$100	14-Mar-2003	01-Mar-2006	3.0	\$1	\$20	\$21
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)	\$100	14-Mar-2003	01-Mar-2006	3.0	\$15	n/a	\$15

Notes for DELAYED costs: Estimated cost to inspect the pressure tank(s) annually, from the initial date of non-compliance to the estimated date of compliance. Estimated cost to equip the pressure tank with some sanitary means of determining the air-to-water ratio, from the initial date of non-compliance to the estimated date of compliance.

	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 **TOTAL**

Screening Date 11-Apr-2005 ^{revised cpw} Docket No. 2005-0962-MLM-E **PCW**

Respondent Mack Pool dba A & P Water Company Policy Revision 2 (September 2002)

Case ID No. 25272 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Public Water Supply

Enf. Coordinator Dana Shuler

Violation Number

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and (c)(2)(A)(iii),
290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)

Secondary Rule Cite(s)

Violation Description Failure to, at least once per month, collect and submit for bacteriological analysis routine bacteriological samples taken from the distribution system, as documented during an investigation on January 28, 2005 and failure to provide public notice of the monitoring violations, as documented in a record review investigation conducted on December 1, 2005. Specifically, samples were not collected for the months of January to November 2005 and it was documented that public notice was not provided for the months of July to November 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

OR

Falsification	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>				

Matrix Notes Failure to submit samples for bacteriological analysis may result in undetected contaminated water being distributed to the public resulting in illness.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Eleven monthly events are recommended, from the investigation date of January 28, 2005 to the last documented violation for November 2005.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$32"/>	Violation Final Penalty Total <input type="text" value="\$2,888"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,888"/>	

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Economic Benefit Worksheet

Respondent Mack Pool dba A & P Water Company
 Case ID No. 25272
 Reg. Ent. Reference No. RN102918794
 Media [Statute] Public Water Supply
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	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				0.0	\$0	n/a	\$0
Training/Sampling	\$710	01-Jan-2005	30-Nov-2005	0.9	\$32	n/a	\$32
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 take routine samples (\$60 per month) and provide public notice, calculated for the months of January to November 2005.

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

TOTAL



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

DATES	Assigned	04-Apr-2005	Screening	11-Apr-2005	EPA Due	
	PCW	04-Nov-2005				

RESPONDENT/FACILITY INFORMATION			
Respondent	Mack Pool dba A & P Water Company		
Reg. Ent. Ref. No.	RN102918794		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	25272	No. of Violations	1
Docket No.	2005-0962-MLM-E	Order Type	1660
Media Program(s)	Water Rights	Enf. Coordinator	Dana Shuler
Multi-Media	Public Water Supply	EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2% Enhancement	Subtotals 2, 3, & 7	\$10
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Notes: Respondent received an enhancement for one (1) NOV for other violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

Notes: Respondent is not yet compliant.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$5	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$510
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$510
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$510
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered because Respondent did not settle in 60 days.

PAYABLE PENALTY	\$510
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Screening Date 11-Apr-2005

Docket No. 2005-0962-MLM-E

PCW

Respondent Mack Pool dba A & P Water Company

Policy Revision 2 (September 2002)

Case ID No. 25272

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102918794

Media [Statute] Water Rights

Enf. Coordinator Dana Shuler

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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%
<i>Please Enter Yes or No</i>			
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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Respondent received an enhancement for one (1) NOV for other violations.

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

Screening Date	11-Apr-2005	Docket No.	2005-0962-MLM-E	PCW
Respondent	Mack Pool dba A & P Water Company			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	25272			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102918794			
Media [Statute]	Water Rights			
Enf. Coordinator	Dana Shuler			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 288.20			
Secondary Rule Cite(s)				
Violation Description	Failure to prepare a drought contingency plan, as documented during an investigation on January 28, 2005.			
	Base Penalty			\$5,000

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

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of the requirement has not been met.				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$5"/>	Violation Final Penalty Total <input type="text" value="\$510"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$510"/>	

Economic Benefit Worksheet

Respondent: Mack Pool dba A & P Water Company
 Case ID No.: 25272
 Reg. Ent. Reference No.: RN102918794
 Media [Statute]: Water Rights
 Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	28-Jan-2005	01-Mar-2006	1.1	\$5	n/a	\$5
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 prepare a drought contingency plan, from the initial date of non-compliance 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: \$100

TOTAL \$5

Compliance History

Customer/Respondent/Owner-Operator:	CN601480890 POOL, MACK	Classification:	Rating:
Regulated Entity:	RN102918794 A & P WATER COMPANY	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2010068
	UTILITIES	REGISTRATION	12641
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2010068
Location:	3397 US HWY 259 S, HENDERSON, TX, 75653		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	June 21, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 21, 2000 to June 21, 2005		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Lori Thompson	Phone:	903-535-5116

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- 1 05/07/2003 (29379)
- 2 11/01/2002 (14838)

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

Date: 05/07/2003 (29379)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)

Description: Failure to adopt an adequate plumbing ordinance, regulations or a service agreement with provisions for proper enforcement. Potential cross-connections or other undesirable plumbing practices must be prohibited. The ordinance or regulations must also prohibit the use of pipes and pipe fittings that contain more than 8

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)[G]

Description: Failure to complete a customer service inspection certification prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)[G]
 Description: Failure by the regulated entity, which serves fewer than 250 connections and only uses groundwater or purchased treated water, to be at all times under the direct supervision of a competent water works operator holding a valid Class "D" or higher operator's license.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)[G]
 Description: Failure to develop a system monitoring plan that specifies locations where microbial contaminants will be monitored. Retain the completed plan and make it available for review by agency personnel at the time of the annual survey.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
 Description: Failure to flush all dead-end mains monthly, or more often if required, to maintain water quality.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]
 Description: Failure to inspect the ground storage tanks at least annually, to determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gaskets provide adequate protection against insects, rodents, and other vermin, and that the interior and exterior c

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failure to inspect the pressure tanks annually, to determine that the pressure release device and pressure gauge are working properly, the air-water ratio is being maintained at the proper level, the exterior coating systems are continuing to provide adequate protection to all metal surfaces, and that the tank remain

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 Description: Failure to post a legible sign at each of its production, treatment, and storage facilities by each community system. The sign must be located in plain view of the public and must provide the name of the regulated entity and an emergency telephone number where a responsible official can be contacted.

Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)
 Description: Failure to submit one sample of water collected from the distribution system regularly each month to a Texas Department of Health certified Laboratory for bacteriological analysis as required by this agency's Drinking Water Standards.

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
MACK POOL DBA
A&P WATER COMPANY;
RN102918794**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2005-0962-MLM-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 11, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Mack Pool dba A&P Water Company ("Mr. Pool").

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

FINDINGS OF FACT

1. Mr. Pool owns and operates equipment and facilities for the transmission, storage, distribution, sale, or provision of potable water to the public, located at 3397 US Highway 259 South, Henderson, Rusk County, Texas (the "System").
2. The System has 20 service connections and serves at least 25 people per day for at least 60 days per year.
3. During an inspection on January 28, 2005, a TCEQ Tyler Regional Office investigator documented that Mr. Pool:
 - a. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement, with provisions for proper enforcement to prevent cross-connections and other unacceptable plumbing practices;
 - b. Failed to complete a customer service inspection certificate prior to providing continuous water service to new connections;

- c. Failed to ensure that the System, which serves fewer than 250 connections and uses purchased treated water, was at all times operated under the direct supervision of a water works operator with an applicable, valid "Class D" or higher operator's license;
 - d. Failed to maintain operating records which report: the amount of chemicals used; the volume of water treated; the date, location, and nature of water quality; pressure or outage complaints received and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the dates that storage tanks and other facilities were cleaned; the maintenance records for water system equipment and facilities; and a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of 30 TEX. ADMIN. CODE § 290.46(e) (relating to licensing requirement of water works operators). Failed to maintain: a record of water works operation and maintenance activities, an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, a sample siting plan for collection of bacteriological samples, and to develop and maintain an up-to-date system monitoring plan;
 - e. Failed to ensure that each of the System's ground tanks were inspected at least annually by water system personnel or a contracted inspection service to determine whether: the vents were in place and properly screened; the roof hatches closed and locked; flap valves and gasketing provided adequate protection against insects, rodents, and other vermin; the interior and exterior coating systems were continuing to provide adequate protection to all metal surfaces; and the tank remained in a watertight condition;
 - f. Failed to ensure that each of the System's pressure tanks were inspected at least annually by water system personnel or a contracted inspection service to determine whether: the pressure release device and pressure gauge were working properly, the air-water ratio was being maintained at the proper level, the exterior coating systems were continuing to provide adequate protection to all metal surfaces, and the tank remained in watertight condition, and failed to equip the tank with some sanitary means of determining the air-to-water ratio; and
 - g. Failed to have a drought contingency plan for the System.
4. During a record review conducted on December 1, 2005, a TCEQ Central Office investigator documented that Mr. Pool failed to, at least once per month, collect and submit for bacteriological analysis routine bacteriological samples taken from the distribution system, and failed to provide public notice of the monitoring violations. Specifically, samples were

not collected for the months of January through November, 2005, and public notice was not provided for the months of July through November, 2005.

5. Mr. Pool received notice of the violations in paragraph 3 on or about April 2, 2005, and of the violations in paragraph 4 on or about January 10, 2006.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mack Pool dba A&P Water Company" (the "EDPRP") in the TCEQ Chief Clerk's office on December 20, 2005.
7. By letter dated December 20, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Pool with notice of the EDPRP. According to the return receipt "green card," Mr. Pool received notice of the EDPRP on December 28, 2005, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Mr. Pool received notice of the EDPRP, provided by the Executive Director. Mr. Pool failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mack Pool dba A&P Water Company" (the "EDFARP") in the TCEQ Chief Clerk's office on March 30, 2006.
10. By letter dated March 30, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Pool with notice of the EDFARP. According to the return receipt "green card," Mr. Pool received notice of the EDFARP on April 7, 2006, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Mr. Pool received notice of the EDFARP, provided by the Executive Director. Mr. Pool failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
12. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mack Pool dba A&P Water Company" (the "EDSARP") in the TCEQ Chief Clerk's office on September 25, 2006.

13. By letter dated September 25, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Pool with notice of the EDSARP. According to the return receipt "green card," Mr. Pool received notice of the EDSARP on September 29, 2006, as evidenced by the signature on the card.
14. More than 20 days have elapsed since Mr. Pool received notice of the EDSARP, provided by the Executive Director. Mr. Pool failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Pool is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 11, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Pool failed to adopt an adequate plumbing ordinance, regulations, or service agreement, with provisions for proper enforcement to prevent cross-connections and other unacceptable plumbing practices, in violation of 30 TEX. ADMIN. CODE § 290.46(i).
3. As evidenced by Finding of Fact No. 3.b., Mr. Pool failed to complete a customer service inspection certificate prior to providing continuous water service to new connections, in violation of 30 TEX. ADMIN. CODE § 290.46(j).
4. As evidenced by Finding of Fact No. 3.c., Mr. Pool failed to ensure that the System, which serves fewer than 250 connections and uses purchased treated water, was at all times operated under the direct supervision of a water works operator with an applicable, valid "Class D" or higher operator's license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(3)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a).
5. As evidenced by Finding of Fact No. 3.d., Mr. Pool failed to maintain operating records which report: the amount of chemicals used; the volume of water treated; the date, location, and nature of water quality; pressure or outage complaints received and the results of any subsequent complaint investigation; the dates that dead-end mains were flushed; the dates that storage tanks and other facilities were cleaned; the maintenance records for water system equipment and facilities; and a daily record or a monthly summary of the work performed and the number of hours worked by each of the part-time operators used to meet the requirements of 30 TEX. ADMIN. CODE § 290.46(e) (relating to licensing requirement of water works operators). Failed to maintain: a record of water works operation and maintenance activities, an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, a sample siting plan for collection of bacteriological

- samples, and to develop and maintain an up-to-date system monitoring plan, in violation of 30 TEX. ADMIN. CODE §§ 290.46(f) and (n)(2), 290.109(c)(1), and 290.121.
6. As evidenced by Finding of Fact No. 3.e., Mr. Pool failed to ensure that each of the System's ground tanks were inspected at least annually by water system personnel or a contracted inspection service to determine whether: the vents were in place and properly screened; the roof hatches closed and locked; flap valves and gasketing provided adequate protection against insects, rodents, and other vermin; the interior and exterior coating systems were continuing to provide adequate protection to all metal surfaces; and the tank remained in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
 7. As evidenced by Finding of Fact No. 3.f., Mr. Pool failed to ensure that each of the System's pressure tanks were inspected at least annually by water system personnel or a contracted inspection service to determine whether: the pressure release device and pressure gauge were working properly, the air-water ratio was being maintained at the proper level, the exterior coating systems were continuing to provide adequate protection to all metal surfaces, and the tank remained in watertight condition, and failed to equip the tank with some sanitary means of determining the air-to-water ratio, in violation of 30 TEX. ADMIN. CODE §§ 290.43(d)(3) and 290.46(m)(1)(B).
 8. As evidenced by Finding of Fact No. 3.g., Mr. Pool failed to have a drought contingency plan for the System, in violation of 30 TEX. ADMIN. CODE § 288.20.
 9. As evidenced by Finding of Fact No. 4, Mr. Pool failed to at least once per month, collect and submit for bacteriological analysis routine bacteriological samples taken from the distribution system, and failed to provide public notice of the monitoring violations. Specifically, samples were not collected for the months of January through November, 2005, and public notice was not provided for the months of July through November, 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and (iii), 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d).
 10. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Pool with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE §§ 7.055 and 11.0842, and 30 TEX. ADMIN. CODE § 70.104(a).
 11. As evidenced by Finding of Fact No. 8, Mr. Pool failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Pool and assess the penalty recommended by the Executive Director.

12. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director has timely served Mr. Pool with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.019, TEX. WATER CODE §§ 7.055 and 11.0842, and 30 TEX. ADMIN. CODE § 70.104(a).
13. As evidenced by Finding of Fact No. 11, Mr. Pool failed to file a timely answer to the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Pool and assess the penalty recommended by the Executive Director.
14. As evidenced by Finding of Fact Nos. 12 and 13, the Executive Director has timely served Mr. Pool with proper notice of the EDSARP, as required by TEX. HEALTH & SAFETY CODE § 341.019, TEX. WATER CODE §§ 7.055 and 11.0842, and 30 TEX. ADMIN. CODE § 70.104(a).
15. As evidenced by Finding of Fact No. 14, Mr. Pool failed to file a timely answer to the EDSARP, as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Pool and assess the penalty recommended by the Executive Director.
16. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 11.0842, the Commission has the authority to assess an administrative penalty against Mr. Pool for violations of the Texas Health and Safety Code and the Texas Water 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.
17. An administrative penalty in the amount of six thousand six hundred dollars (\$6,600.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 11.0842.
18. TEX. WATER CODE §§ 5.102, 7.002, and 11.0840, and TEX. HEALTH & SAFETY CODE § 341.049 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Pool is assessed an administrative penalty in the amount six thousand six hundred dollars (\$6,600.00) for violations of the Texas Water Code, the Texas Health & Safety Code, and rules of the TCEQ. The payment of this administrative penalty and Mr. Pool's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Mack Pool dba A&P Water Company; Docket No. 2005-0962-MLM-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. Mr. Pool shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Pool shall:
 - i. 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, pursuant to 30 TEX. ADMIN. CODE § 290.46(i);
 - ii. Complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service which he has reason to believe that cross-connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities, pursuant to 30 TEX. ADMIN. CODE § 290.46(j);
 - iii. Ensure that the System is at all times operated under the direct supervision of a certified water works operator who holds an applicable, valid "Class D" (or higher) license issued by the Executive Director, pursuant to 30 TEX. ADMIN. CODE § 290.46(e)(3)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a);
 - iv. Create and maintain a record of water works operation and maintenance activities, an accurate and up-to-date map of the distribution system, a system monitoring plan, and an up-to-date chemical and microbiological monitoring plan, and begin submitting periodic operating reports and daily records or a

monthly summary of the work performed and the number of hours worked by each part time operator, pursuant to the applicable requirements of 30 TEX. ADMIN. CODE §§ 290.46(f) and (n)(2), 290.109(c)(1), and 290.121;

- v. Ensure that each of the System's ground tanks are inspected at least annually by water system personnel or a contracted inspection service, pursuant to the applicable provisions of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A);
 - vi. Ensure that each of the System's pressure tanks are inspected at least annually by water system personnel or a contracted inspection service, and provide facilities for maintaining the air-water-volume, pursuant to the applicable provisions of 30 TEX. ADMIN. CODE §§ 290.43 (d)(3) and 290.46(m)(1)(B); and
 - vii. Begin collecting routine bacteriological samples from the public water supply and submit those samples for bacteriological analysis, pursuant to the applicable provisions of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(iii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
- b. Within 45 days after the effective date of the Commission Order, Mr. Pool shall prepare and submit to the Commission a drought contingency plan for the System, pursuant to 30 TEX. ADMIN. CODE § 288.20.
 - c. Within 60 days after the effective date of the Commission Order, Mr. Pool shall demonstrate compliance with Ordering Provisions 2(a)(i)-(vii) and 2(b) by submitting written certification, as described below, along with detailed supporting documentation.

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.”

Mr. Pool shall 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:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Pool. Mr. Pool is ordered to give notice of this Order to personnel who maintain day-to-day control over the System operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Pool shall be made in writing to the Executive Director. Extensions are not effective until Mr. Pool receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Mr. Pool if the Executive Director determines that Mr. Pool has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Mack Pool dba A&P Water Company
Docket No. 2005-0962-MLM-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mack Pool dba A&P Water Company” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 20, 2005.

The EDPRP was sent to Mr. Pool at his last known address on December 20, 2005, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Pool received notice of the EDPRP on December 28, 2005, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Pool received notice of the EDPRP. Mr. Pool failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mack Pool dba A&P Water Company” (the “EDFARP”) was filed with the Office of the Chief Clerk on March 30, 2006.

The EDFARP was sent to Mr. Pool at his last known address on March 30, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Pool received notice of the EDFARP on April 7, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Pool received notice of the EDFARP. Mr. Pool failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative

Penalty Against and Requiring Certain Actions of Mack Pool dba A&P Water Company” (the “EDSARP”) was filed with the Office of the Chief Clerk on September 25, 2006.

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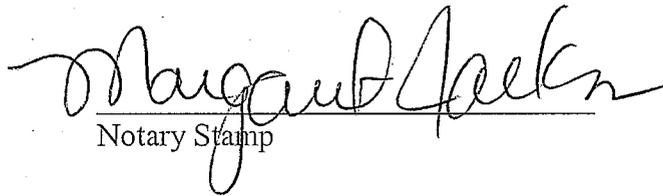
More than 20 days have elapsed since Mr. Pool received notice of the EDSARP. Mr. Pool failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.”



Lena Roberts
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 10th day of January, A.D., 2007.


Notary Stamp