EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0883-PWS-E **TCEQ ID:** RN101237154 **CASE NO.:** 33681

RESPONDENT NAME: Darryl Wheeler dba Magnolia Lake RV Park

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Magnolia Lake RV Park, Farm-to-Market Road 2665, 1/4 mile east of the intersection with Highway 59, Polk 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 October 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4033; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Darryl Wheeler, Owner, Magnolia Lake RV Park, P.O. Box 496, Goodrich, Texas 77335-0496

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(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** March 28, 2007 **Date of NOV/NOE Relating to this Case:** May 23, 2007 (NOE) **Background Facts:** This was a routine investigation. Seven violations were documented. **WATER** 1) Failed to provide a sanitary control easement or an approved exception to the easement requirement that covers the land within 150 feet of well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. 2) Failed to provide water system records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2)]. 3) Failed to maintain an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)]. 4) Failed to compile and maintain a plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)]. 5) Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].	**Total Assessed:** $2,160 **Total Deferred:** $432 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $128 (remaining $1,600 due in 16 monthly payments of $100 each) **Site Compliance History Classification** **__ High __ Average __ Poor** **Person Compliance History Classification** **__ High __ Average __ Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 10 days after the effective date of this Agreed Order, begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility. b. Within 15 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a. c. Within 30 days after the effective date of this Agreed Order: i. Begin compiling and maintain properly completed monthly water works operation reports and maintenance records, including but not limited to records with dates of when the dead-end mains were flushed; ii. Create and begin maintaining an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies; iii. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference; and iv. Begin conducting annual inspections of the pressure tank. d. Within 45 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c. e. Within 90 days after the effective date of this Agreed Order: i. Obtain a sanitary control easement or an exception to the easement requirement that covers the land within 150 feet of the well; and

6) Failed to conduct an annual inspection of the water system's pressure tank [30 TEX. ADMIN. CODE § 290.46(m)(1)]. 7) Failed to meet the minimum well capacity requirement of 1.5 gallons per minute ("gpm") per community connection and failed to meet the minimum well capacity requirement of 1.0 gpm per transient unit [30 TEX. ADMIN. CODE §§ 290.45(b)(1)(A)(i), 290.45(c)(1)(A)(i), and TEX. HEALTH & SAFETY CODE § 341.0315(c)].		ii. Provide well capacities of 1.5 gpm and 1.0 gpm at the Facility. f. Within 105 days after the effective date of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e.

Additional ID No(s).: PWS 1870116

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision April 26, 2007*

DATES					
Assigned	21-May-2007				
PCW	5-Jun-2007	Screening	5-Jun-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Darryl Wheeler dba Magnolia Lake RV Park		
Reg. Ent. Ref. No.	RN101237154		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33681	No. of Violations	7
Docket No.	2007-0883-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $1,310

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **60%** Enhancement — *Subtotals 2, 3, & 7* $786

Notes: The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action, 15 prior dissimilar NOVs, and one prior administrative order that does not contain denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

Total EB Amounts	$617
Approx. Cost of Compliance	$6,300

0% Enhancement* — **Capped at the Total EB $ Amount* — *Subtotal 6* $0

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $2,096

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 $2,096

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $2,160

DEFERRAL — 20% Reduction — *Adjustment* -$432

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 $1,728

Screening Date 5-Jun-2007 **Docket No.** 2007-0883-PWS-E **PCW**

Respondent Darryl Wheeler dba Magnolia Lake RV Park *Policy Revision 2 (September 2002)*

Case ID No. 33681 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101237154

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	15	30%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 60%

>> 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 to one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action, 15 prior dissimilar NOVs, and one prior administrative order that does not contain denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date 5-Jun-2007 **Docket No.** 2007-0883-PWS-E PCW

Respondent Darryl Wheeler dba Magnolia Lake RV Park *Policy Revision 2 (September 2002)*

Case ID No. 33681 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101237154

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description Failed to provide a sanitary control easement or an approved exception to the easement requirement that covers the land within 150 feet of well.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Without a sanitary control easement, contaminants could enter the well and customers of the water supply could be exposed to insignificant amounts of contaminants that do not exceed levels protective of human health.

Adjustment $950

$50

Violation Events

Number of Violation Events 1 | 69 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $50

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $14

Statutory Limit Test

Violation Final Penalty Total $80

This violation Final Assessed Penalty (adjusted for limits) $80

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$200	28-Mar-2007	1-Apr-2008	1.0	$1	$14	$14
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 obtain a sanitary control easement or exception to the easement requirement, 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: $200

TOTAL: $14

Screening Date	5-Jun-2007	**Docket No.** 2007-0883-PWS-E	PCW
Respondent	Darryl Wheeler dba Magnolia Lake RV Park		*Policy Revision 2 (September 2002)*
Case ID No.	33681		*PCW Revision April 26, 2007*
Reg. Ent. Reference No.	RN101237154		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2)

Violation Description Failed to provide water system records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, there were no records of dead-end mains being flushed.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Approximately 10% of the rule requirement was not met.

Adjustment $990

$10

Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $10

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $16

This violation Final Assessed Penalty (adjusted for limits) $16

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media 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	$100	28-Mar-2007	1-Feb-2008	0.8	$4	n/a	$4
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 maintain system operating records, 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: $100

TOTAL: $4

Screening Date 5-Jun-2007 **Docket No.** 2007-0883-PWS-E PCW

Respondent Darryl Wheeler dba Magnolia Lake RV Park *Policy Revision 2 (September 2002)*

Case ID No. 33681 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101237154

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2)

Violation Description Failed to maintain an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies. Specifically, the distribution system map did not include mains and valves.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes: 50% of the rule requirement was not met.

Adjustment $950

$50

Violation Events

Number of Violation Events 1 | 69 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $50

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $21

Statutory Limit Test

Violation Final Penalty Total $80

This violation Final Assessed Penalty (adjusted for limits) $80

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media 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)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$500	28-Mar-2007	1-Feb-2008	0.8	$21	n/a	$21
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 begin maintaining a complete up-to-date map of the distribution system, 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: $500

TOTAL: $21

Screening Date 5-Jun-2007 **Docket No.** 2007-0883-PWS-E PCW

Respondent Darryl Wheeler dba Magnolia Lake RV Park *Policy Revision 2 (September 2002)*

Case ID No. 33681 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101237154

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to compile and maintain a plant operations manual for operator review and reference.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $8

Statutory Limit Test

Violation Final Penalty Total $160

This violation Final Assessed Penalty (adjusted for limits) $160

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$200	28-Mar-2007	1-Feb-2008	0.8	$8	n/a	$8
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 costs includes the amount required to develop a facility operations manual, 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: $200

TOTAL: $8

Screening Date	5-Jun-2007	**Docket No.** 2007-0883-PWS-E	PCW
Respondent	Darryl Wheeler dba Magnolia Lake RV Park		*Policy Revision 2 (September 2002)*
Case ID No.	33681		*PCW Revision April 26, 2007*
Reg. Ent. Reference No.	RN101237154		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Epifanio Villarreal		

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $160

This violation Final Assessed Penalty (adjusted for limits) $160

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$100	28-Mar-2007	10-Jan-2008	0.8	$4	n/a	$4
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 prepare and begin maintaining a chemical and microbiological monitoring plan for the distribution system, 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: $100

TOTAL: $4

Screening Date 5-Jun-2007 **Docket No.** 2007-0883-PWS-E PCW

Respondent Darryl Wheeler dba Magnolia Lake RV Park *Policy Revision 2 (September 2002)*

Case ID No. 33681 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101237154

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

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

Violation Description Failed to conduct an annual inspection of the water system's pressure tank.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Complete failure to perform an inspection of the pressure tank could result in non-detection of a tank defect causing loss of tank integrity and customers of the water supply could be exposed to significant amounts of contamination that would exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $250

One annual event is recommended for the annual inspection that was not performed, as documented during the March 28, 2007 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $210

Statutory Limit Test

Violation Final Penalty Total $400

This violation Final Assessed Penalty (adjusted for limits) $400

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling	$200	28-Mar-2006	28-Mar-2007	1.0	$10	$200	$210
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	The avoided cost includes the amount to conduct the annual Inspection on the water system's pressure tank, calculated for one year prior to the date of the investigation.						

Approx. Cost of Compliance: $200

TOTAL: $210

Screening Date 5-Jun-2007 **Docket No.** 2007-0883-PWS-E **PCW**

Respondent Darryl Wheeler dba Magnolia Lake RV Park *Policy Revision 2 (September 2002)*

Case ID No. 33681 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101237154

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(A)(i), 290.45(c)(1)(A)(i), and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to meet the minimum well capacity requirement of 1.5 gallons per minute ("gpm") per community connection and failed to meet the minimum well capacity requirement of 1.0 gpm per transient unit. Specifically, the well produces 32 gpm and the system requires 63.5 gpm, which is 50% deficient.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $750

$250

Violation Events

3 69 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $750

Three monthly events are recommended from the date of the investigation, March 28, 2007 to the date of screening, June 5, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $355

Statutory Limit Test

Violation Final Penalty Total $1,200

This violation Final Assessed Penalty (adjusted for limits) $1,200

Economic Benefit Worksheet

Respondent Darryl Wheeler dba Magnolia Lake RV Park
Case ID No. 33681
Reg. Ent. Reference No. RN101237154
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$5,000	28-Mar-2007	1-Apr-2008	1.0	$17	$338	$355
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The delayed costs includes the amount to meet the minimum well capacity requirements of 1.5 and 1.0 gpm per community connection and transient unit, 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: $355

Compliance History

Customer/Respondent/Owner-Operator:	CN602851388	WHEELER, DARRYL	Classification:	Rating:
Regulated Entity:	RN101237154	MAGNOLIA LAKE RV PARK	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1870116
	WATER LICENSING	LICENSE	1870116

Location: FM 2665, 1/4 MILE EAST OF THE INTERSECTION WITH HWY 59, POLK COUNTY

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: June 05, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 5, 2002 to June 5, 2007

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

Name: Epifanio 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?	Yes
3. If Yes, who is the current owner?	DARRYL WHEELER
4. if Yes, who was/were the prior owner(s)?	TODD MCCARTHY
5. When did the change(s) in ownership occur?	8/22/2005

Components (Multimedia) for the Site :

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

Effective Date: 09/21/2006 ADMINORDER 2006-0389-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in July 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide a PN for the microbal monitoring violation for the month of July 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in August of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in September of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in November 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in April of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide a PN for the microbal monitoring violation for the month of April 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in May of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide a PN for the microbal monitoring violation for the month of May 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in June of 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to provide a PN for the microbal monitoring violation for the month of June 2005.

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.)

07/28/2003	(146489)
09/03/2004	(293302)
05/31/2005	(457027)
06/16/2005	(394697)
06/27/2005	(457040)
07/27/2005	(457045)
07/27/2005	(452629)
08/25/2005	(452648)
10/03/2005	(453094)
10/31/2005	(453100)
12/21/2005	(453110)
03/16/2006	(457615)
05/23/2007	(556740)

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

Date 07/28/2003 (146489)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)[G]
Description: Failure to use a trained and licenced water system operator.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to chlorinate the water.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain facilities used by the water system.

Date 10/29/2004 (452629)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 09/2004 Failure to collect any routine monitoring samples.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 09/2004 Failure to post a PN for not collecting any routine monitoring samples.

Date 11/30/2004 (452629)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 10/2004 Failure to collect any routine monitoring samples.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 10/2004 Failure to post a PN for not collecting any routine monitoring samples.

Date 01/28/2005 (452629)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 12/2004 Failure to collect any routine monitoring samples.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 12/2004 Failure to post a PN for not collecting any routine monitoring samples.

Date 02/02/2005 (452629)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 11/2004 Failure to collect any routine monitoring samples.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 11/2004 Failure to post a PN for not collecting any routine monitoring samples.

Date 03/03/2005 (452629)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 01/2005 Failure to collect any routine monitoring samples.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 01/2005 Failure to post a PN for not collecting any routine monitoring samples.

Date 04/01/2005 (452629)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 02/2005 Failure to collect any routine monitoring samples.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 02/2005 Failure to post a PN for not collecting any routine monitoring samples.

Date 05/02/2005 (452629)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: 03/2005 Failure to collect any routine monitoring samples.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: 03/2005 Failure to post a PN for not collecting any routine monitoring samples.

Date 05/31/2005 (457027)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in April of 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide a PN for the microbal monitoring violation for the month of April 2005.

Date 06/16/2005 (394697)

Self Report? NO Classification Moderate

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

Description: Failure to chlorinate the water.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(i)
30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(ii)

Description: Failure to provide a DPD colorimetric kit.

Self Report? NO Classification Minor

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

Description: Failure to employ an operator with a Class "D" or higher license.

Self Report? NO Classification Moderate

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

Description: Failure to provide recorded copies of sanitary control easements for all land within 150 feet of the water well.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

Description: Failure to submit monthly bacteriological samples from active service connections which are representative of water throughout the distribution system.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)

Description: Failure to flush all dead-end mains at monthly intervals.

Self Report? NO Classification Minor

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

Description: Failure to have an adequate distribution map.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide a plant operations manual.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121[G]

Description: Failure to provide a monitoring plan at the time of the investigation.

Self Report? NO Classification Minor

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

Description: Failure to perform the annual tank inspection on the pressure tanks.

Self Report? NO Classification Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)
30 TAC Chapter 290, SubChapter D 290.45(c)(1)(A)(i)

Description: Failure to meet this agency's "Minimum Water System Capacity Requirements" (well production).

Date 06/27/2005 (457040)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in May of 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide a PN for the microbal monitoring violation for the month of May 2005.

Date 07/27/2005 (457045)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in June of 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide a PN for the microbal monitoring violation for the month of June 2005.

Date 08/25/2005 (452648)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in July 2005.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide a PN for the microbal monitoring violation for the month of July 2005.

Date 10/03/2005 (453094)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in August of 2005.

Date 10/31/2005 (453100)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in September of 2005.

Date 12/21/2005 (453110)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine monthly bacteriological monitoring of the public water supply in November 2005.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
DARRYL WHEELER DBA	§	**TEXAS COMMISSION ON**
MAGNOLIA LAKE RV PARK	§	
RN101237154	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0883-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 Darryl Wheeler dba Magnolia Lake RV Park ("Mr. Wheeler") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Wheeler appear before the Commission and together stipulate that:

1. Mr. Wheeler owns and operates a public water supply on Farm-to-Market Road 2665, 1/4 mile east of the intersection with Highway 59, Polk County, Texas (the "Facility") that has approximately 11 service connections and 47 transient connections and serves at least 25 people per day for at least 60 days per year.

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

3. Mr. Wheeler received notice of the violations alleged in Section II ("Allegations") on or about May 28, 2007.

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

5. An administrative penalty in the amount of Two Thousand One Hundred Sixty Dollars ($2,160) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Wheeler has paid One Hundred Twenty-Eight Dollars ($128) of the administrative penalty and Four Hundred Thirty-Two Dollars ($432) are deferred contingent upon Mr. Wheeler's timely

and satisfactory compliance with all the terms of this Agreed Order. If Mr. Wheeler fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Wheeler to pay all or part of the deferred penalty.

The remaining amount of One Thousand Six Hundred Dollars ($1,600) of the administrative penalty shall be payable in 16 monthly payments of One Hundred Dollars ($100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Wheeler fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Wheeler to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Wheeler to timely and satisfactorily comply with all the terms of this Agreed Order.

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 Mr. Wheeler 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 Mr. Wheeler 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, Mr. Wheeler is alleged to have:

1. Failed to provide a sanitary control easement or an approved exception to the easement requirement that covers the land within 150 feet of well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on March 28, 2007.

2. Failed to provide water system records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), as documented during an investigation conducted on March 28, 2007.

3. Failed to maintain an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), as documented during an investigation conducted on March 28, 2007.

4. Failed to compile and maintain a plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l), as documented during an investigation conducted on March 28, 2007.

5. Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b), as documented during an investigation conducted on March 28, 2007.

6. Failed to conduct an annual inspection of the water system's pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1), as documented during an investigation conducted on March 28, 2007.

7. Failed to meet the minimum well capacity requirement of 1.5 gallons per minute ("gpm") per community connection and failed to meet the minimum well capacity requirement of 1.0 gpm per transient unit, in violation of 30 TEX. ADMIN. CODE §§ 290.45(b)(1)(A)(i), 290.45(c)(1)(A)(i), and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on March 28, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Wheeler pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Wheeler'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: Darryl Wheeler dba Magnolia Lake RV Park, Docket No. 2007-0883-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 Mr. Wheeler shall undertake the following technical requirements:

a. Within 10 days after the effective date of this Agreed Order, begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.121.

b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.f., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.

c. Within 30 days after the effective date of this Agreed Order:

   i. Begin compiling and maintain properly completed monthly water works operation reports and maintenance records, including but not limited to records with dates of when the dead-end mains were flushed, in accordance with 30 TEX. ADMIN. CODE § 290.46;

   ii. Create and begin maintaining an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies, in accordance with 30 TEX. ADMIN. CODE § 290.46;

   iii. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42; and

   iv. Begin conducting annual inspections of the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.46.

d. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.f., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.

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

   i. Obtain a sanitary control easement or an exception to the easement requirement that covers the land within 150 feet of the well, in accordance with 30 TEX. ADMIN. CODE § 290.41; and

   ii. Provide well capacities of 1.5 gpm and 1.0 gpm at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.45.

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

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Wheeler. Mr. Wheeler 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 Mr. Wheeler shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wheeler 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 Mr. Wheeler 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 Mr. Wheeler, or three days after the date on which the Commission mails notice of the Order to Mr. Wheeler, 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

_____ 11/13/2007
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 indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

_____ 8/20/07
Signature Date

Darryl Wheeler Owner
Name (Printed or typed) Title
Authorized Representative of
Darryl Wheeler dba Magnolia Lake RV Park

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.