

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1466-PWS-E TCEQ ID: RN101202505 CASE NO.: 26657
RESPONDENT NAME: MOUNTAIN BREEZE L.L.C.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 201 Mountain Breeze Camp Road in New Braunfels, Comal County</p> <p>TYPE OF OPERATION: Recreational area with a public water supply system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 12, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717 TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050 Respondent: Mr. Paul Rich, President, Mountain Breeze L.L.C., P. O. Box 1557, New Braunfels, Texas 78130 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: May 1, 2005</p> <p>Date of NOV/NOEs Relating to this Case: July, 16, 2003, August 6, 2003, August 15, 2003, August 28, 2003, September 17, 2003, November 6, 2003, January 20, 2004, May 5, 2004, May 26, 2004 (NOV), November 1, 2004, May 2, 2005, May 31, 2005 (NOVs)</p> <p>November 6, 2005 (NOE), November 18, 2005 (NOE)</p> <p>Background Facts:</p> <p>An EDRP was filed August 23, 2006. The Respondent filed an answer to the EDRP on September 12, 2006. The Agreed Order was signed on August 1, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database report.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to collect routine water samples for bacteriological analysis and failed to post a public notification for the months of May, March, April, and May 2003; and, September and March 2004; and April 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i), and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)]. Failed to collect and submit repeat samples for bacteriological analysis following coliform-positive sample results, failed to post a public notification of the coliform monitoring violation for the months of June, July and August 2003, and failed to collect and submit at least five distribution samples for bacteriological analysis in September 2003 [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii), (c)(2)(F), and 290.122(c)(2)(B)]. Exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria in August 2003 and failed to post a public notification for the violation [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c)]. 	<p>Total Assessed: \$5,160</p> <p>Total Deferred: \$0</p> <p>Total Paid/Due to General Revenue: \$200/\$4,960</p> <p>The Respondent has paid \$200 of the administrative penalty. The remaining amount of \$4,960 shall be payable in 32 monthly payments of \$155 each.</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>Findings Order Justification:</p> <p>There were more than 3 previous NOVs for the same violation type.</p>	<p>The Executive Director recognizes that Mountain Breeze came into compliance with sampling requirements on May 1, 2005.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	25-Jul-2005	Screening	22-Aug-2005	EPA Due	06-Apr-2006
	PCW	22-Aug-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mountain Breeze L.L.C.
Reg. Ent. Ref. No.	RN101202505
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	26657	No. of Violations	3
Docket No.	2005-1466-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Tel Croston
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 82% Enhancement Subtotals 2, 3, & 7 \$2,460

Notes Respondent was issued an Agreed Order and 11 NOVs with the same or similar violations and one unrelated NOV in the past five years.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction Subtotal 5 -\$300

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

Notes Respondent came into compliance with sampling requirements on May 1, 2005.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$799	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$650	

SUM OF SUBTOTALS 1-7 Final Subtotal \$5,160

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 \$5,160

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$5,160

DEFERRAL 0% Reduction Adjustment \$0

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

Notes No deferral offered with Findings Order.

PAYABLE PENALTY \$5,160

Screening Date 22-Aug-2005

Docket No. 2005-1466-PWS-E

PCW

Respondent Mountain Breeze L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 26657

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

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>	11	55%
	Other written NOVs	1	2%
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	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 <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	N/A	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	N/A	0%
	Participation in a voluntary pollution reduction program	N/A	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	N/A	0%

Adjustment Percentage (Subtotal 2) 82%

>> **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 Respondent was issued an Agreed Order and 11 NOVs with the same or similar violations and one unrelated NOV in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 22-Aug-2005 **Docket No.** 2005-1466-PWS-E **PCW**
Respondent Mountain Breeze L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 26657 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101202505
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston
Violation Number 1
Primary Rule Cite(s) 30 Tex. Admin. Code § 290.109 (c)(2)(A)(i) and 290.122(c)(2)(B)
Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(d)
Violation Description
 Respondent failed to collect routine water samples for bacteriological analysis and failing to publish notice of the failure to conduct repeat sampling in a daily newspaper of general circulation in the area served by the system for the months of May 2003, March, April, May, and September 2004 and March and April 2005, as documented during the TCEQ central office record review investigation conducted on May 1, 2005.
Base Penalty \$1,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent

Matrix Notes: Failure to sample may allow undetected contaminants that exceed levels that are protective of human health or environmental receptors being distributed to the public for human consumption.

Adjustment -\$750
 Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 7

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

Violation Base Penalty \$1,750

Seven monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$607

Violation Final Penalty Total \$3,010

This violation Final Assessed Penalty (adjusted for limits) \$3,010

Economic Benefit Worksheet

Respondent Mountain Breeze L.L.C.
 Case ID No. 26657
 Reg. Ent. Reference No. RN101202505
 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
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	\$300	03-May-2003	05-Apr-2005	1.9	\$29	\$578	\$607
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs
 Estimated cost to conduct routine sampling and to post public notice of the violation. The beginning date is the first month sampling was required, the end date is the last month the sampling was not conducted.

Approx. Cost of Compliance **\$300** TOTAL **\$607**

Screening Date 22-Aug-2005 **Docket No.** 2005-1466-PWS-E **PCW**
Respondent Mountain Breeze L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 26657 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101202505
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston
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="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<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 checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

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 Mountain Breeze L.L.C.
 Case ID No. 26657
 Reg. Ent. Reference No. RN101202505
 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
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	\$250	01-Jun-2003	30-Sep-2003	0.3	\$4	\$83	\$87
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

Approximate cost to collect and submit repeat bacteriological samples and provide public notice of the sampling deficiencies.

Approx. Cost of Compliance \$250

TOTAL \$87

Screening Date 22-Aug-2005

Docket No. 2005-1466-PWS-E

PCW

Respondent Mountain Breeze L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 26657

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101202505

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

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 Mountain Breeze L.L.C.
 Case ID No. 26657
 Reg. Ent. Reference No. RN101202505
 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
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				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)	\$100	01-Aug-2003	31-Aug-2003	1.0	\$5	\$100	\$105
Notes for AVOIDED costs	Estimated cost to properly treat the water and the approximate cost to collect and submit additional routine bacteriological samples and provide public notice of the sampling deficiencies						

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN602847386 MOUNTAIN BREEZE L.L.C. Classification: N/A Rating: 0.000
Regulated Entity: RN101202505 MOUNTAIN BREEZE Classification: N/A Site Rating: 0.00
CAMPGROUND
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0460190
Location: 201 Mountain Breeze Camp Road
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: August 19, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 19, 2000 to August 19, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Tel Croston Phone: 512-239-5717

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
6. Comments:

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: 7/6/01

ADMINORDER 2000-1215-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)[G],

4G THC Chapter 321, SubChapter D 341.033(d)

Description: Failure to collect routine monthly water samples for bacteriological anyaysis.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(g)(4),

30 TAC Chapter 290, SubChapter F 290.122(c)[G]

Description: Failure to provide public notification of the failure to conduct bacteriological sampling.

- 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 08/15/2003 (396772)
- 2 07/16/2003 (395389)
- 3 11/06/2003 (396782)
- 4 09/17/2003 (396775)
- 5 08/07/2003 (144584)
- 6 05/05/2003 (396784)
- 7 05/02/2005 (396798)
- 8 08/28/2003 (396776)
- 9 10/06/2000 (IE0015464001007)
- 10 07/20/2005 (398393)
- 11 05/26/2004 (396788)
- 12 05/31/2005 (396803)
- 13 11/01/2004 (396791)

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
NA

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
MOUNTAIN BREEZE L.L.C.;
RN101202505

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1466-PWS -E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mountain Breeze L.L.C. ("Mountain Breeze") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Mountain Breeze, presented this agreement to the Commission.

Mountain Breeze understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Mountain Breeze agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Mountain Breeze.

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

FINDINGS OF FACT

1. Mountain Breeze owns and operates a recreational area with a public water supply system located at 201 Mountain Breeze Camp Road in New Braunfels, Comal County, Texas (the "Site").
2. The Facility has nine service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(47).

3. During a record review conducted on May 1, 2005, TCEQ Staff documented that Mountain Breeze:
 - a. Failed to collect routine water samples for bacteriological analysis and failed to post a public notification for the months of May 2003, March, April, May and September 2004 and March and April 2005.
 - b. Failed to collect and submit repeat samples for bacteriological analysis following coliform-positive sample results, failed to post a public notification of the coliform monitoring violation for the months of June, July and August 2003, and failed to collect and submit at least five distribution samples for bacteriological analysis in September 2003.
 - c. Exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria in August 2003 and failed to post a public notification for the violation.
4. Mountain Breeze received notice of the violations alleged in Section II ("Allegations") on or about July 16, August 15, August 28, September 17, and November 1, 2004, and May 2, and May 31, 2005.
5. The Executive Director recognizes that Mountain Breeze came into compliance with sampling requirements on May 1, 2005.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mountain Breeze is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mountain Breeze failed to collect routine water samples for bacteriological analysis and failed to post a public notification for the months of May 2003, March, April, May and September 2004 and March and April 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i), (c)(2)(A)(i), and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3.b., Mountain Breeze failed to collect and submit repeat samples for bacteriological analysis following coliform-positive sample results, failed to post a public notification of the coliform monitoring violation for the months of June, July and August 2003, and failed to collect and submit at least five distribution samples for bacteriological analysis in September 2003, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii), (c)(2)(F), and 290.122(c)(2)(B).

4. As evidenced by Finding of Fact No. 3.c., Mountain Breeze exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria in August 2003 and failed to post a public notification for the violation, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mountain Breeze for violations of the Texas Health & Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of five thousand one hundred sixty dollars (\$5,160.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Mountain Breeze has paid two hundred dollars (\$200.00) of the administrative penalty. The remaining amount of four thousand nine hundred sixty dollars (\$4,960.00) of the administrative penalty shall be payable in 32 monthly payments of one hundred fifty-five dollars (\$155.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If Mountain Breeze fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Mountain Breeze to meet the payment schedule of this Agreed Order constitutes the failure by Mountain Breeze to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Mountain Breeze is assessed an administrative penalty in the amount of five thousand one hundred sixty dollars (\$5,160.00), as set forth in Conclusion of Law No. 6, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Mountain Breeze's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with

the notation "Re: Mountain Breeze L.L.C.; Docket No. 2005-1466-PWS-E; Enforcement ID No. 26657" 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. The provisions of this Agreed Order shall apply to and be binding upon Mountain Breeze. Mountain Breeze is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site referenced in this Agreed Order.
3. 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 Mountain Breeze shall be made in writing to the Executive Director. Extensions are not effective until Mountain Breeze receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
4. 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 Mountain Breeze if the Executive Director determines that Mountain Breeze has not complied with one or more of the terms or conditions in this Agreed Order.
5. 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mountain Breeze 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mountain Breeze, or three days after the date on which the Commission mails notice of the Order to Mountain Breeze,

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/10/07

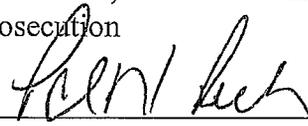
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 my failure to comply with the Ordering Provisions, if any, in this order and/or Mountain Breeze's failure to timely pay the penalty amount, may result in:

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution



Signature

8/8/07

Date

John W Rich

Name (Printed or typed)
Authorized Representative of
Mountain Breeze, L.L.C.

president

Title