EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0271-WOC-E **TCEQ ID:** RN103747317 **CASE NO.:** 32769

RESPONDENT NAME: John L. Moore

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
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	X OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
___MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 476 Beaver Lane, McLennan County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: ___ **Yes** __X__ **No**

OTHER SIGNIFICANT MATTERS: No complaints were received. 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 June 11, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Tel Croston, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5717; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. John L. Moore, 476 Beaver Lane, Waco, Texas 76705

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** December 19, 2006 **Date of NOE Relating to this Case:** January 31, 2007 (NOE) **Background Facts:** This was a routine record review. One violation was documented. **WATER** Failed to aquire and maintain a license to operate a public water supply from the Commission [30 TEX. ADMIN. CODE § 30.381(b) and TEX. WATER CODE § 37.003].	**Total Assessed:** $675 **Total Deferred:** $135 _X_ Expedited Settlement ___Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $540 **Site Compliance History Classification** __ **High** ___ **Average** __ **Poor** **Person Compliance History Classification** __ **High** ___ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent was issued Class D operator license No. W00020933 on March 1, 2007.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

DATES					
Assigned	12-Feb-2007				
PCW	23-Feb-2007	Screening	23-Feb-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	John L. Moore		
Reg. Ent. Ref. No.	RN103747317		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32769	No. of Violations	1
Docket No.	2007-0271-WOC-E	Order Type	1660
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Tel Croston
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty $ Limit Minimum	$0	Maximum	$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 0% Enhancement — *Subtotals 2, 3, & 7* $0

Notes: No change due to compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 10% Reduction — *Subtotal 5* $75

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

Notes: Respondent came into compliance on March 1, 2007.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$5
Approx. Cost of Compliance	$500

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $675

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 $675

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $675

DEFERRAL — 20% Reduction — *Adjustment* -$135

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 $540

Screening Date 23-Feb-2007 **Docket No.** 2007-0271-WOC-E **PCW**

Respondent John L. Moore

Case ID No. 32769

Reg. Ent. Reference No. RN103747317

Media [Statute] All Occupational Licenses

Enf. Coordinator Tel Croston

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 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) 0%

>> 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

No change due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 23-Feb-2007 **Docket No.** 2007-0271-WOC-E **PCW**

Respondent John L. Moore *Policy Revision 2 (September 2002)*

Case ID No. 32769 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN103747317

Media [Statute] All Occupational Licenses

Enf. Coordinator Tel Croston

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 30.381(b) and Tex. Water Code § 37.003

Violation Description Failed to acquire and maintain a license to operate a public water supply from the Commission. Specifically, the Respondent operated a public water supply without possessing a current license.

Base Penalty $2,500

>> 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: Failure to comply with 100% of the rule requirement.

Adjustment $2,250

$250

Violation Events

Number of Violation Events 3 | 67 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 investigation December 19, 2006 to the date of screening February 23, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $675

This violation Final Assessed Penalty (adjusted for limits) $675

Economic Benefit Worksheet

Respondent John L. Moore
Case ID No. 32769
Reg. Ent. Reference No. RN103747317
Media All Occupational Licenses
Violation No. 1

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	$500	19-Dec-2006	1-Mar-2007	0.2	$5	n/a	$5
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to obtain a license to operate a public water supply. Beginning date is the date of the investigation. Final date is the date the license was issued.						
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: $5

Compliance History

Customer/Respondent/Owner-Operator:	CN602262800	MOORE, JOHN L	Classification:	Rating:
Regulated Entity:	RN103747317	MOORE, JOHN L	Classification:	Site Rating:
ID Number(s):	WATER LICENSING		LICENSE	WO0020933
Location:	476 Beaver Lane, McLennan County			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	February 16, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 15, 2002 to February 16, 2007			

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

Name: Tel Croston Phone: 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

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 02/05/2007 (534691)

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

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	§	**TEXAS COMMISSION ON**
JOHN L. MOORE	§	
RN103747317	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0271-WOC-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 John L. Moore ("Mr. Moore") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 37. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Moore appear before the Commission and together stipulate that:

1. Mr. Moore owns and operates a public water supply at 476 Beaver Lane in McLennan County, Texas (the "Facility") that has approximately 89 service connections and serves at least 25 people per day for at least 60 days per year.

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

3. Mr. Moore received notice of the violations alleged in Section II ("Allegations") on or about February 5, 2007.

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

5. An administrative penalty in the amount of Six Hundred Seventy-Five Dollars ($675) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Moore has paid Five Hundred Forty Dollars ($540) of the administrative penalty and One Hundred Thirty-Five Dollars ($135) is deferred contingent upon Mr. Moore's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Moore fails to timely

and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Moore to pay all or part of the deferred penalty.

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

7. The Executive Director of the TCEQ and Mr. Moore 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. Moore has not complied with one or more of the terms or conditions in this Agreed Order.

9. The Executive Director recognizes that Mr. Moore was issued Class D operator license No. W00020933 on March 1, 2007.

10. 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.

11. 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. Moore is alleged to have failed to aquire and maintain a license to operate a public water supply from the Commission, in violation of 30 TEX. ADMIN. CODE § 30.381(b) and TEX. WATER CODE § 37.003, as documented during a record review conducted on December 19, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Moore pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Moore'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: John L. Moore, Docket No. 2007-0271-WOC-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. The provisions of this Agreed Order shall apply to and be binding upon Mr. Moore. Mr. Moore 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.

3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Moore 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.

4. 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.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 4/8/2008
For the Executive Director Date

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

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

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

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

_____ 3-19-08
Signature Date

JOHN L. MOORE _____ OWNER
Name (Printed or typed) Title
Authorized Representative of
John L. Moore

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.