

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0748-PWS-E **TCEQ ID:** RN101237154 **CASE NO.:** 35833
RESPONDENT NAME: Darryl Wheeler dba Magnolia Lake RV Park

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: Magnolia Lake RV Park, located at Farm-to-Market Road 2665, 1/4 mile east of Highway 59, Polk County</p> <p>TYPE OF OPERATION: Public water 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 September 29, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; 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 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(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 23, 2008</p> <p>Date of NOV/NOE Relating to this Case: April 25, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Exceeded the Acute Maximum Contaminant Level ("AMCL") for fecal coliform and Escherichia coli ("E. coli") bacteria and failed to provide public notification within 24 hours of the exceedance [30 TEX. ADMIN. CODE §§ 290.109(f)(1)(A) and 290.122(a)(1) and TEX. HEALTH & SAFETY CODE § 341.031(a)].</p> <p>2) Failed to issue a boil water notification within 24 hours using the prescribed format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1)].</p> <p>3) Exceeded the Maximum Contaminant Level ("MCL") for total coliform and failed to provide public notice for exceeding the MCL [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].</p>	<p>Total Assessed: \$2,335</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$335 (remaining \$2,000 due in 20 monthly payments of \$100 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Human health has been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Returned to compliance with the AMCL for fecal coliform and E. coli bacteria as of May 2006; and</p> <p>b. Returned to compliance with the MCL for total coliform as of October 2007.</p>

Additional ID No(s): PWS ID No. 1870116



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

DATES	Assigned	28-Apr-2008			
	PCW	7-May-2008	Screening	2-May-2008	EPA Due 1-Feb-2009

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.	35833	No. of Violations	3
Docket No.	2008-0748-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	110% Enhancement	Subtotals 2, 3, & 7	\$1,210
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Notes: The penalty enhancement is due to one prior agreed final enforcement order containing a denial of liability, one agreed final enforcement order without a denial of liability, eleven prior NOV's for the same or similar violations as those in the current enforcement action and five dissimilar NOV's.

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

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$275
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent came into compliance as of October 2007.

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$300	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$300		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,035
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15%	Adjustment	\$300
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$2,335
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,335
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,335
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Screening Date 2-May-2008 **Docket No.** 2008-0748-PWS-E

PCW

Respondent Darryl Wheeler dba Magnolia Lake RV Park

Policy Revision 2 (September 2002)

Case ID No. 35833

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101237154

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

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	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 110%

>> **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 agreed final enforcement order containing a denial of liability, one agreed final enforcement order without a denial of liability, eleven prior NOVs for the same or similar violations as those in the current enforcement action and five dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 110%

Screening Date 2-May-2008	Docket No. 2008-0748-PWS-E	PCW
Respondent Darryl Wheeler dba Magnolia Lake RV Park	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35833	<i>PCW Revision March 8, 2008</i>	
Reg. Ent. Reference No. RN101237154		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(f)(1)(A) and 290.122(a)(1), and Tex. Health & Safety Code § 341.031(a)
Violation Description	Exceeded the Acute Maximum Contaminant Level ("AMCL") for fecal coliform and Escherichia coli ("E. coli") bacteria in April 2006 and failed to provide public notification within 24 hours of the exceedance.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text" value="x"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input style="width: 50px;" type="text" value="50%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input style="width: 50px;" type="text" value="0%"/>

Matrix Notes The presence of E. coli bacteria is an indication that the water supply is contaminated with a significant amount of contaminants which exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

mark only one with an x

Violation Base Penalty

One monthly event is recommended for the month of the exceedance.

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: Darryl Wheeler dba Magnolia Lake RV Park
Case ID No.: 35833
Reg. Ent. Reference No.: RN101237154
Media: 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
<i>No commas or \$</i>							

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]	\$130	1-Apr-2006	30-Apr-2006	0.0	\$0	\$130	\$130
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to ensure that the AMCL for fecal coliform and Escherichia coli bacteria is not exceeded and provide proper notification to the public and the Executive Director, calculated for the month in which the violation occurred.

Approx. Cost of Compliance

\$130

TOTAL

\$130

Screening Date 2-May-2008	Docket No. 2008-0748-PWS-E	PCW
Respondent Darryl Wheeler dba Magnolia Lake RV Park	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35833	<i>PCW Revision March 8, 2008</i>	
Reg. Ent. Reference No. RN101237154		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code § 290.46(q)(1)	
Violation Description	Failed to issue a boil water notification within 24 hours using the prescribed format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, at the time of the record review, it was documented that the Respondent did not issue a boil water notice after being notified on April 17, 2006 that a repeat water sample collected on April 13, 2006 contained fecal coliform and E. coli.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
					Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirements were not met.				
Adjustment					\$900

\$100

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days												
<i>mark only one with an x</i> <table border="1" style="margin-left: 20px;"> <tr><td>daily</td><td><input type="checkbox"/></td></tr> <tr><td>monthly</td><td><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="checkbox"/></td></tr> <tr><td>annual</td><td><input type="checkbox"/></td></tr> <tr><td>single event</td><td><input checked="" type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input checked="" type="checkbox"/>	Violation Base Penalty <input type="text" value="\$100"/>	
daily	<input type="checkbox"/>													
monthly	<input type="checkbox"/>													
quarterly	<input type="checkbox"/>													
semiannual	<input type="checkbox"/>													
annual	<input type="checkbox"/>													
single event	<input checked="" type="checkbox"/>													
One single event is recommended.														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$50"/>	Violation Final Penalty Total <input type="text" value="\$212"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$212"/>	

Economic Benefit Worksheet

Respondent: Darryl Wheeler dba Magnolia Lake RV Park

Case ID No.: 35833

Reg. Ent. Reference No.: RN101237154

Media: Public Water Supply

Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

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)	\$50	17-Apr-2006	18-Apr-2006	0.0	\$0	\$50	\$50

Notes for AVOIDED costs

The avoided costs include the amount required to provide a boil water notice to all customers of the water supply, calculated for the month in which the violation occurred.

Approx. Cost of Compliance

\$50

TOTAL

\$50

Screening Date 2-May-2008	Docket No. 2008-0748-PWS-E	PCW
Respondent Darryl Wheeler dba Magnolia Lake RV Park		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35833		<i>PCW Revision March 8, 2008</i>
Reg. Ent. Reference No. RN101237154		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		
Violation Number	<input type="text" value="3"/>	
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2), and Tex. Health & Safety Code § 341.031(a)	
Violation Description	Exceeded the Maximum Contaminant Level ("MCL") for total coliform and failed to provide public notice for exceeding the MCL for total coliform in August 2006 and September 2007.	
Base Penalty		<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="0%"/>

Matrix Notes The presence of coliform bacteria is an indication that the water supply is contaminated with a significant amount of contaminants which do not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	x
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended for the months of the exceedance.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$120"/>	Violation Final Penalty Total <input type="text" value="\$1,061"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,061"/>	

Economic Benefit Worksheet

Respondent: Darryl Wheeler dba Magnolia Lake RV Park

Case ID No.: 35833

Reg. Ent. Reference No.: RN101237154

Media: 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	Overtime Costs	EB Amount
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No commas or \$

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]	\$60	1-Aug-2006	30-Aug-2006	0.0	\$0	\$60	\$60
Other (as needed)	\$60	1-Sep-2007	30-Sep-2007	0.0	\$0	\$60	\$60

Notes for AVOIDED costs

The avoided costs include the amount to ensure that the MCL for total coliform is not exceeded and provide public notification, calculated for the months in which the violation occurred.

Approx. Cost of Compliance

\$120

TOTAL

\$120

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 microbial 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 microbial monitoring violation for the month of June 2005.

Effective Date: 01/28/2008

ADMINORDER 2007-0883-PWS-E

Classification: Moderate

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

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.

Classification: Minor

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

Description: Failed to provide water system records to Commission personnel at the time of the investigation.

Classification: Minor

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

Description: Failed to maintain an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies.

Classification: Moderate

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

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
30 TAC Chapter 290, SubChapter F 290.121(b)

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.

Classification: Minor

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

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

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)
5A THC Chapter 341, SubChapter A 341.0315(c)

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.

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	07/28/2003	(146489)
2	09/03/2004	(293302)
3	05/31/2005	(457027)
4	06/16/2005	(394697)
5	06/27/2005	(457040)
6	07/27/2005	(457045)
7	07/27/2005	(452629)
8	08/25/2005	(452648)
9	10/03/2005	(453094)

10 10/31/2005 (453100)
 11 12/21/2005 (453110)
 12 03/16/2006 (457615)
 13 05/23/2007 (556740)
 14 12/07/2007 (598520)
 15 04/25/2008 (654081)

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)
 Description: Failure to use a trained and licenced water system operator.

Date: 08/28/2003 (146489)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
 Description: Failure to chlorinate the water.

Date: 09/28/2003 (146489)
 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.

Date: 11/30/2004 (452629)
 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: 12/30/2004 (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.

Date: 01/28/2005 (452629)
 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: 02/28/2005 (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.

Date: 03/28/2005 (452629)
 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: 04/28/2005 (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.

Date: 05/28/2005 (452629)
 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: 06/28/2005 (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.

Date: 07/28/2005 (452629)
 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: 08/28/2005 (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.

Date: 09/28/2005 (452629)
 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: 10/28/2005 (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 microbial 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)
 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: Failed to provide a sanitary control easement or an approved exception to the easement requirement that covers the land within 150 feet of 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)(2)
 Description: Failed to provide water system records to Commission personnel at the time of the investigation.

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

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failed to compile and maintain a plant operations manual for operator review and reference.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 30 TAC Chapter 290, SubChapter F 290.121(b)
 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.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failed to conduct an annual inspection of the water system's pressure tank.

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)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 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.
 Date: 06/27/2005 (457040)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: 5A THC Chapter 341, SubChapter A 341.033(d)
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 microbial 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 microbial 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 microbial 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

2. During a record review on April 23, 2008, TCEQ staff documented that the Respondent exceeded the Acute Maximum Contaminant Level ("AMCL") for fecal coliform and Escherichia coli ("E. coli") bacteria in April 2006 and failed to provide public notification within 24 hours of the exceedance.
3. During a record review on April 23, 2008, TCEQ staff documented that the Respondent did not issue a boil water notification within 24 hours using the prescribed format as specified in 30 TEX. ADMIN. CODE § 290.47(e). Specifically, at the time of the record review, it was documented that the Respondent did not issue a boil water notice after being notified on April 17, 2006 that a repeat water sample collected on April 13, 2006 contained fecal coliform and E. coli.
4. During a record review on April 23, 2008, TCEQ staff documented that the Respondent exceeded the Maximum Contaminant Level ("MCL") for total coliform and and failed to provide public notice for exceeding the MCL for total coliform in August 2006 and September 2007.
5. The Respondent received notice of the violations on April 30, 2008.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Returned to compliance with the AMCL for fecal coliform and E. coli bacteria as of May 2006; and
 - b. Returned to compliance with the MCL for total coliform as of October 2007.

II. CONCLUSIONS OF LAW

1. The Respondent 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 Findings of Fact No. 2, the Respondent exceeded the AMCL for fecal coliform and E. coli bacteria and failed to provide public notification within 24 hours of the exceedance, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(1)(A) and 290.122(a)(1), and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to issue a boil water notification within 24 hours using the prescribed format as specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1).
4. As evidenced by Findings of Fact No. 4, the Respondent exceeded the MCL for total coliform and failed to provide public notice for exceeding the MCL, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2), and TEX. HEALTH & SAFETY CODE § 341.031(a).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the

Texas Health and 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 Two Thousand Three Hundred Thirty-Five Dollars (\$2,335) 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(b). The Respondent has paid Three Hundred Thirty-Five Dollars (\$335) of the administrative penalty. The remaining amount of Two Thousand Dollars (\$2,000) of the administrative penalty shall be payable in 20 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 the Respondent 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Three Hundred Thirty-Five Dollars (\$2,335) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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 "TCEQ" and shall be sent with the notation "Re: Darryl Wheeler dba Magnolia Lake RV Park, Docket No. 2008-0748-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent if the Executive Director determines that the Respondent 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 the Respondent 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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

Date 11/14/2008

I, the undersigned, have read and understand the attached Agreed Order in the matter of Darryl Wheeler dba Magnolia Lake RV Park. I am authorized to agree to the attached Agreed Order on behalf of Darryl Wheeler dba Magnolia Lake RV Park, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Darryl Wheeler dba Magnolia Lake RV Park waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.


Signature

Date 2/12/08

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


Title

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

