

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0853-MLM-E **TCEQ ID:** RN102691995 **CASE NO.:** 31120
RESPONDENT NAME: Lonzo Gale dba Lass Utility Service Company

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 checked="" 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 checked="" type="checkbox"/> PUBLIC WATER UTILITIES
<p>SITE WHERE VIOLATION(S) OCCURRED: Tara Park Water System, 21873 Tara Park Drive, Waller County</p> <p>TYPE OF OPERATION: Public water supply</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 December 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4033; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Lonzo Gale, Owner, Lass Utility Service Company, P.O. Box 314, Magnolia, Texas 77353 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input 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 29, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 13, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide a minimum pressure tank capacity of 50 gallons per connection for the Tara Park Water System [30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(ii), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.e.ii.].</p> <p>2) Failure to provide a well capacity of 1.5 gallons per minute ("gpm") per connection for the Tara Park Water System [30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.e.i.].</p> <p>3) Failure to provide a sanitary control easement that covers the land within 150 feet of the well for the Tara Park Water System [30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.c.].</p> <p>4) Failure to submit a planning report to the Executive Director for the Tara Park Water System that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the system has reached 85% of its capacity [30 TEX.</p>	<p>Total Assessed: \$8,356</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 (Due) to General Revenue: \$256 (remaining \$8,100 due in 36 monthly payments of \$225 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: Indifference to legal duty. The Respondent failed to comply with the ordering provisions of a prior Agreed Order.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit an administratively and technically complete report to the Commission's Executive Director addressing the 85% capacity planning requirement for the Tara Park Water Systems.</p> <p>b. Within 45 days after the effective of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 90 days after the effective date of this Agreed Order, secure a sanitary control easement covering all property within 150 feet of the well for the Tara Park Water System.</p> <p>d. Within 105 days after the effective of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p> <p>e. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Provide a well capacity of 1.5 gpm per connection at the Tara Park Water System; and</p> <p>ii. Provide a pressure tank capacity of 50 gallons per connection at the Tara Park Water System.</p> <p>f. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e.</p>

ADMIN. CODE § 291.93(3), TEX. WATER CODE § 13.139(d), and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.a.i.].		
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Additional ID No(s): PWS 2370016



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	19-May-2008	Screening	20-May-2008	EPA Due	1-Apr-2008
	PCW	20-May-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lonzo Gale dba Lass Utility Service Company
Reg. Ent. Ref. No.	RN102691995
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	31120	No. of Violations	1
Docket No.	2008-0853-MLM-E	Order Type	Findings
Media Program(s)	Public Water Utilities	Government/Non-Profit	No
Multi-Media	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$500

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$550
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	37.0% Enhancement Subtotals 2, 3, & 7 \$203
Notes	The penalty enhancement is due to three prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, one dissimilar NOV, and one agreed final enforcement order containing a denial of liability.
Culpability	No 0.0% Enhancement Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
<small>Total EB Amounts</small>	\$15
<small>Approx. Cost of Compliance</small>	\$200
	<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7	Final Subtotal \$753
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	Final Penalty Amount \$753
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$753
DEFERRAL	0.0% Reduction Adjustment \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	No deferral is recommended for Findings Orders.
PAYABLE PENALTY	\$753

Screening Date 20-May-2008

Docket No. 2008-0853-MLM-E

PCW

Respondent Lonzo Gale dba Lass Utility Service Company

Policy Revision 2 (September 2002)

Case ID No. 31120

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102691995

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments 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) 37%

>> 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 three prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, one dissimilar NOV, and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 20-May-2008	Docket No. 2008-0853-MLM-E	PCW			
Respondent Lonzo Gale dba Lass Utility Service Company	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 31120	<i>PCW Revision June 12, 2008</i>				
Reg. Ent. Reference No. RN102691995					
Media [Statute] Public Water Utilities					
Enf. Coordinator Epifanio Villarreal					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	30 Tex. Admin. Code § 291.93(3), Tex. Water Code § 13.139(d), TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.a.i.				
Violation Description	Failed to submit a planning report to the Executive Director for the Tara Park Water System that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the system has reached 85% of its capacity. Specifically, the Facility is at 217% well capacity and 250% pressure tank capacity based on 45 active service connections.				
Base Penalty		<input type="text" value="\$500"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		Percent	<input type="text" value="0%"/>		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>		
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>				
		Adjustment	<input type="text" value="\$450"/>		
		<input type="text" value="\$50"/>			
Violation Events					
Number of Violation Events		<input type="text" value="11"/>		<input type="text" value="326"/> Number of violation days	
<i>mark only one with an x</i>	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"/>			
		Violation Base Penalty			
		<input type="text" value="\$550"/>			
<input type="text" value="Eleven monthly events are recommended from the effective date of the TCEQ Agreed Order Docket No. 2006-1595-MLM-E, June 29, 2007, to the date of screening May 20, 2008."/>					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input type="text"/>				
N/A	<input checked="" type="text" value="x"/>	(mark with x)			
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
		Violation Subtotal			
		<input type="text" value="\$550"/>			
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$15"/>		Violation Final Penalty Total	
				<input type="text" value="\$754"/>	
		This violation Final Assessed Penalty (adjusted for limits)			
		<input type="text" value="\$754"/>			

Economic Benefit Worksheet

Respondent Lonzo Gale dba Lass Utility Service Company
Case ID No. 31120
Reg. Ent. Reference No. RN102691995
Media Public Water Utilities
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	29-Jun-2007	1-Jan-2009	1.51	\$15	n/a	\$15

Notes for DELAYED costs

The delayed cost includes the amount to prepare a report that addresses capacity issues, calculated from the effective date of TCEQ Agreed Order Docket No. 2006-1595-MLM-E, to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$15



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned PCW	19-May-2008	Screening	20-May-2008	EPA Due	1-Apr-2008
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RESPONDENT/FACILITY INFORMATION	
Respondent	Lonzo Gale dba Lass Utility Service Company
Reg. Ent. Ref. No.	RN102691995
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	31120	No. of Violations	3
Docket No.	2008-0853-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media	Public Water Utilities	Enf. Coordinator	Epifanio Villarreal
Admin. Penalty \$ Limit Minimum	\$50	EC's Team	Enforcement Team 2
Maximum	\$1,000		

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes: The penalty enhancement is due to three prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, one dissimilar NOV, and one agreed final enforcement order containing a denial of liability.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 20-May-2008

Docket No. 2008-0853-MLM-E

PCW

Respondent Lonzo Gale dba Lass Utility Service Company

Policy Revision 2 (September 2002)

Case ID No. 31120

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102691995

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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	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%
<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) 37%

>> **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 three prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, one dissimilar NOV, and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 20-May-2008	Docket No. 2008-0853-MLM-E	PCW												
Respondent Lonzo Gale dba Lass Utility Service Company		<small>Policy Revision 2 (September 2002)</small>												
Case ID No. 31120		<small>PCW Revision June 12, 2008</small>												
Reg. Ent. Reference No. RN102691995														
Media [Statute] Public Water Supply														
Enf. Coordinator Epifanio Villarreal														
Violation Number <input type="text" value="1"/>														
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(A)(ii), Tex. Health & Safety Code § 341.0315(c), TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.e.ii."/>													
Violation Description	<input type="text" value="Failed to provide a minimum pressure tank capacity of 50 gallons per connection for the Tara Park Water System. Specifically, at the time of the investigation, it was documented that the system provides a pressure tank capacity of 900 gallons when the system is required to provide a pressure tank capacity of 2,250 gallons for the 45 connections, which is a 60% deficiency."/>													
	Base Penalty	<input type="text" value="\$1,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release	Major Moderate Minor												
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>												
	Potential	<input type="text" value="x"/> <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	<input type="text" value="Failure to provide adequate pressure tank capacity may result in low water pressure and/or water outages exposing customers to a significant amount of contaminants that would exceed levels protective of human health."/>													
	Adjustment	<input type="text" value="\$750"/>												
		<input type="text" value="\$250"/>												
Violation Events														
	Number of Violation Events <input type="text" value="11"/>	<input type="text" value="326"/> Number of violation days												
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,750"/>
daily	<input type="text"/>													
monthly	<input type="text" value="x"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
	<input type="text" value="Eleven monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2006 1595-MLM-E, June 29, 2007, to the date of screening May 20, 2008."/>													
Good Faith Efforts to Comply	0.0% Reduction	<input type="text" value="\$0"/>												
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>													
Extraordinary	<input type="text"/>													
Ordinary	<input type="text"/>													
N/A	<input type="text" value="x"/> (mark with x)													
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>													
	Violation Subtotal	<input type="text" value="\$2,750"/>												
Economic Benefit (EB) for this violation														
	Statutory Limit Test													
Estimated EB Amount	<input type="text" value="\$674"/>	Violation Final Penalty Total <input type="text" value="\$3,768"/>												
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,768"/>													

Economic Benefit Worksheet

Respondent Lonzo Gale dba Lass Utility Service Company
Case ID No. 31120
Reg. Ent. Reference No. RN102691995
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	29-Jun-2007	1-Jun-2009	1.93	\$32	\$642	\$674
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the amount to provide the minimum pressure tank capacity of 50 gallons per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2006-1595-MLM-E, to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$674
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Screening Date 20-May-2008	Docket No. 2008-0853-MLM-E	PCW	
Respondent Lonzo Gale dba Lass Utility Service Company	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 31120	<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN102691995			
Media [Statute] Public Water Supply			
Enf. Coordinator Epifanio Villarreal			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(A)(i), Tex. Health & Safety Code § 341.0315(c), TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.e.i.		
Violation Description	Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection for the Tara Park Water System. Specifically, at the time of the investigation, it was documented that the water system is required to provide a well production capacity of 66 gpm for the 45 connections. However, the water system provided a well production capacity of 31 gpm, which is a 53% deficiency.		
Base Penalty		<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent
			<input type="text" value="0%"/>
Matrix Notes	Failure to provide adequate well capacity may result in an adequate supply of water exposing customers to a significant amount of contaminants that would exceed levels protective of human health.		
Adjustment		<input type="text" value="\$750"/>	
		<input type="text" value="\$250"/>	
Violation Events			
Number of Violation Events		<input type="text" value="11"/>	<input type="text" value="326"/> Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty
	monthly	<input type="text" value="x"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
<input type="text" value="\$2,750"/>			
Eleven monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2006-1595-MLM-E, June 29, 2007, to the date of screening May 20, 2008.			
Good Faith Efforts to Comply			
		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		<input type="text" value="\$2,750"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$674"/>	Violation Final Penalty Total
		<input type="text" value="\$3,768"/>	
		This violation Final Assessed Penalty (adjusted for limits)	
		<input type="text" value="\$3,768"/>	

Economic Benefit Worksheet

Respondent Lonzo Gale dba Lass Utility Service Company
Case ID No. 31120
Reg. Ent. Reference No. RN102691995
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	29-Jun-2007	1-Jun-2009	1.93	\$32	\$642	\$674
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide a well capacity of 1.5 gpm per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2006-1595-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$674

Screening Date 20-May-2008	Docket No. 2008-0853-MLM-E	PCW												
Respondent Lonzo Gale dba Lass Utility Service Company		<i>Policy Revision 2 (September 2002)</i>												
Case ID No. 31120		<i>PCW Revision June 12, 2008</i>												
Reg. Ent. Reference No. RN102691995														
Media [Statute] Public Water Supply														
Enf. Coordinator Epifanio Villarreal														
Violation Number <input type="text" value="3"/>														
Rule Cite(s)	30 Tex. Admin. Code § 290.41(c)(1)(F), TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.c.													
Violation Description	Failed to provide a sanitary control easement that covers the land within 150 feet of the well for the Tara Park Water System.													
	Base Penalty	<input type="text" value="\$1,000"/>												
>> Environmental, Property and Human Health Matrix														
	Harm													
	Major Moderate Minor													
OR														
Actual	<input type="text"/>	<input type="text"/>												
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>												
	Percent	<input type="text" value="5%"/>												
>> Programmatic Matrix														
	Falsification Major Moderate Minor													
	<input type="text"/>	<input type="text"/>												
	Percent	<input type="text" value="0%"/>												
Matrix Notes	Without a sanitary control easement, contaminants could enter the well and customers of the water supply could be exposed to insignificant amounts of contaminants that do not exceed levels protective of human health.													
	Adjustment	<input type="text" value="\$950"/>												
		<input type="text" value="\$50"/>												
Violation Events														
Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="326"/> Number of violation days												
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input checked="" type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input checked="" type="text" value="x"/>	Violation Base Penalty
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input checked="" type="text" value="x"/>													
		<input type="text" value="\$50"/>												
	One single event is recommended.													
Good Faith Efforts to Comply														
	<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>												
	Before NOV NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<input type="text"/>												
N/A	<input checked="" type="text" value="x"/>	(mark with x)												
Notes	The Respondent does not meet the good faith criteria for this violation.													
	Violation Subtotal	<input type="text" value="\$50"/>												
Economic Benefit (EB) for this violation														
Estimated EB Amount	<input type="text" value="\$23"/>	Violation Final Penalty Total												
		<input type="text" value="\$69"/>												
	This violation Final Assessed Penalty (adjusted for limits)													
		<input type="text" value="\$69"/>												

Economic Benefit Worksheet

Respondent Lonzo Gale dba Lass Utility Service Company
Case ID No. 31120
Reg. Ent. Reference No. RN102691995
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	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	29-Jun-2007	1-Mar-2009	1.67	\$1	\$22	\$23
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to obtain a sanitary control easement for the well, calculated from the effective date of TCEQ Agreed Order Docket No. 2006-1595-MLM-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$23

Compliance History

Customer/Respondent/Owner-Operator:	CN601575251 GALE, LONZO	Classification:	Rating:
Regulated Entity:	RN102691995 TARA PARK WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION		2370016
	WATER LICENSING LICENSE		2370016
Location:	21873 TARA PARK DRIVE, WALLER COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 20, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 20, 2003 to May 20, 2008		

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

Name: Epi Villarreal Phone: 210-403-4033

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | 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.

Effective Date: 06/29/2007

ADMINORDER 2006-1595-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to meet the TCEQ "Minimum Water System Capacity Requirements" for adequate pressure tank capacity of 50 gallons per connection at the Tara Park Water System.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection at the Hamilton Estates and Tara Park Water Systems.

Classification: Moderate

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

Description: Failed to provide a sanitary control easement covering land within 150 feet of the well or executive approval for an authorized substitute at the Tara Park Water System.

Classification: Moderate

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

Description: Failed to compile and maintain a thorough plant operations manual for operator review and reference at the Tara Park Water System.

Classification: Moderate

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

Description: Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan at the Tara Park Water System.

Classification: Moderate

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

Description: Failed to conduct an annual inspection of the pressure tank at the Tara Park Water System.

Classification: Moderate

Citation: 2B TWC Chapter 13, SubChapter A 13.139(d)
30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failed to submit planning reports to the Executive Director for the Hamilton Estates and Tara Park Water Systems that clearly explain how each retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certified area when the system has reached 85% of its capacity

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	07/26/2004	(152189)
2	09/06/2005	(418638)
3	08/29/2006	(270609)
4	11/19/2007	(599601)
5	05/13/2008	(653837)

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

Date: 07/27/2004 (152189)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to meet the TCEQ "Minimum Water System Capacity Requirements" for adequate pressure tank capacity of 50 gallons per connection at the Tara Park Water System.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection at the Hamilton Estates and Tara Park Water Systems.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure, by a retail public utility with a CCN which has reached 85% of its well production and pressure tank capacity to submit a planning report explaining how the utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area.

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 covering land within 150 feet of the well or executive approval for an authorized substitute at the Tara Park Water System.

Date: 08/30/2005 (418638)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)

Description: Failure, by a retail public utility with a CCN which has reached 85% of its well production and pressure tank capacity to submit a planning report explaining how the utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area.

Date: 09/01/2005 (418638)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failed to meet the TCEQ "Minimum Water System Capacity Requirements" for adequate pressure tank capacity of 50 gallons per connection at the Tara Park Water System.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)
 5A THC Chapter 341, SubChapter A 341.0315(c)
 Description: Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection at the Hamilton Estates and Tara Park Water Systems.

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 covering land within 150 feet of the well or executive approval for an authorized substitute at the Tara Park Water System.

Date: 11/16/2007 (599601)
 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 covering land within 150 feet of the well or executive approval for an authorized substitute at the Tara Park Water System.

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

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan at the Tara Park Water System.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
 Description: Failed to conduct an annual inspection of the pressure tank at the Tara Park Water System.

Self Report? NO Classification: Moderate
 Citation: 2B TWC Chapter 13, SubChapter A 13.139(d)
 30 TAC Chapter 291, SubChapter F 291.93(3)
 Description: Failed to submit planning reports to the Executive Director for the Hamilton Estates and Tara Park Water Systems that clearly explain how each retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certified area when the system has reached 85% of its capacity.

Self Report? NO Classification: Major
 Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)
 Rqmt Prov: ORDER OPs 2.a.-2.d.
 Description: Failed to comply with the Ordering Provisions of Commission Order Docket No. 2006-1595-MLM-E.

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LONZO GALE DBA LASS UTILITY
SERVICE COMPANY
RN102691995

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-0853-MLM-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Lonzo Gale dba Lass Utility Service Company (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that he 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, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 21873 Tara Park Drive, Waller County, Texas (the “Facility”) that has approximately 45 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Respondent owns and operates, in Texas and for compensation, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. The Respondent is not exempt from regulation under TEX. WATER CODE ch. 13 or the rules of the Commission.
3. During an investigation on April 29, 2008, TCEQ staff documented that the Respondent did not provide a minimum pressure tank capacity of 50 gallons per connection for the Tara Park Water System. Specifically, at the time of the investigation, it was documented that the system provides a pressure tank capacity of 900 gallons when the system is required to provide a pressure tank capacity of 2,250 gallons for the 45 connections, which is a 60% deficiency.
4. During an investigation on April 29, 2008, TCEQ staff documented that the Respondent did not provide a well capacity of 1.5 gallons per minute ("gpm") per connection for the Tara Park Water System. Specifically, at the time of the investigation, it was documented that the water system is required to provide a well production capacity of 66 gpm for the 45 connections. However, the water system provided a well production capacity of 31 gpm, which is a 53% deficiency.
5. During an investigation on April 29, 2008, TCEQ staff documented that the Respondent did not provide a sanitary control easement that covers the land within 150 feet of the well for the Tara Park Water System.
6. During an investigation on April 29, 2008, TCEQ staff documented that the Respondent did not submit a planning report to the Executive Director for the Tara Park Water System that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the system has reached 85% of its capacity. Specifically, the Facility is at 217% well capacity and 250% pressure tank capacity based on 45 active service connections.
7. The Respondent received notice of the violations on May 18, 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to provide a minimum pressure tank capacity of 50 gallons per connection for the Tara Park Water System, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(ii), TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.e.ii.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to provide a well capacity of 1.5 gpm per connection for the Tara Park Water System, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i), TEX. HEALTH & SAFETY CODE § 341.0315(c) and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.e.i.

4. As evidenced by Findings of Fact No. 5, the Respondent failed to provide a sanitary control easement that covers the land within 150 feet of the well for the Tara Park Water System, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.c.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to submit a planning report to the Executive Director for the Tara Park Water System that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the system has reached 85% of its capacity, in violation of 30 TEX. ADMIN. CODE § 291.93(3), TEX. WATER CODE § 13.139(d) and TCEQ Agreed Order Docket No. 2006-1595-MLM-E, Ordering Provision 2.a.i.
6. 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.
7. An administrative penalty in the amount of Eight Thousand Three Hundred Fifty-Six Dollars (\$8,356) 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 Two Hundred Fifty-Six Dollars (\$256) of the administrative penalty. The remaining amount of Eight Thousand One Hundred Dollars (\$8,100) of the administrative penalty shall be payable in 36 monthly payments of Two Hundred Twenty-Five Dollars (\$225) 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 Eight Thousand Three Hundred Fifty-Six Dollars (\$8,356) as set forth in Section II, Paragraph 7 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: Lonzo Gale dba Lass Utility Service Company, Docket No. 2008-0853-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit an administratively and technically complete report to the Commission's Executive Director addressing the 85% capacity planning requirement for the Tara Park Water System, in accordance with 30 TEX. ADMIN. CODE § 291.93 to:

Utilities & Districts Section
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.f, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
- c. Within 90 days after the effective date of this Agreed Order, secure a sanitary control easement covering all property within 150 feet of the well for the Tara Park Water System, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 105 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.f, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c.
- e. Within 180 days after the effective date of this Agreed Order:
- i. Provide a well capacity of 1.5 gpm per connection at the Tara Park Water System, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide a pressure tank capacity of 50 gallons per connection at the Tara Park Water System, in accordance with 30 TEX. ADMIN. CODE § 290.45.

- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. 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.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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

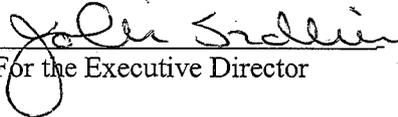
receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to 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.
7. 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.
8. 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.
9. 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.
10. 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

11/24/2008

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Lonzo Gale dba Lass Utility Service Company. I am authorized to agree to the attached Agreed Order on behalf of Lonzo Gale dba Lass Utility Service Company, 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, Lonzo Gale dba Lass Utility Service Company 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

9-26-08

Date

Lonzo Gale

Name (Printed or typed)
Authorized Representative of
Lonzo Gale dba Lass Utility Service Company

OWNER

Title

