

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2009-0774-PWS-E **TCEQ ID:** RN101442523 **CASE NO.:** 37681**RESPONDENT NAME:** Deadwood Water Supply Corporation

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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: Deadwood WSC, 227 County Road 212, approximately two miles east of Beckville, Panola County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 October 12, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Michael Isbell, President, Deadwood Water Supply Corporation, P.O. Box 412, Carthage, Texas 75633 Mr. J. Clayton La Grone, Vice President, Deadwood Water Supply Corporation, P.O. Box 412, Carthage, Texas 75633 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: March 24, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 29, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to plug Well No. 4 with cement according to the requirements set forth in 16 TEX. ADMIN. CODE ch. 76, or to repair the well so that it is no longer in a deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u)].</p> <p>2) Failure to provide a minimum total well capacity of 0.6 gallons per minute ("gpm") per connection in pressure plane one [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to provide a minimum total well capacity of 0.6 gpm per connection in pressure plane two [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>4) Failure to provide a minimum elevated storage capacity of 100 gallons per connection in pressure plane one [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$735</p> <p>Total Deferred: \$147 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$588</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, properly plug Well No. 4 with cement according to the requirements set forth in 16 TEX. ADMIN. CODE ch. 76, or repair the well so that it is no longer in a deteriorated condition;</p> <p>b. Within 105 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 a.</p> <p>c. Within 270 days after the effective date of this Agreed Order:</p> <p>i. Provide a minimum total well capacity of 0.6 gpm per connection in pressure planes one and two; and</p> <p>ii. Provide a minimum elevated storage capacity of 100 gallons per connection in pressure plane one.</p> <p>d. Within 285 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 c.</p>

Additional ID No(s): PWS ID No. 1830025



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Apr-2009	Screening	19-May-2009	EPA Due	
	PCW	19-May-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Deadwood Water Supply Corporation		
Reg. Ent. Ref. No.	RN101442523		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37681	No. of Violations	4
Docket No.	2009-0774-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		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 \$700

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5.0% Enhancement Subtotals 2, 3, & 7 \$35

Notes: The enhancement is due to one prior Notice of Violation that contains same or similar violations as those in the current enforcement action.

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

Total EB Amounts	\$22,290
Approx. Cost of Compliance	\$251,180

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$735

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes:

Final Penalty Amount \$735

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$735

DEFERRAL 20.0% Reduction Adjustment -\$147

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$588

Screening Date 19-May-2009

Docket No. 2009-0774-PWS-E

PCW

Respondent Deadwood Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 37681

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101442523

Media [Statute]: Public Water Supply

Enf. Coordinator Rebecca Clausewitz

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>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 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) 5%

>> **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 enhancement is due to one prior Notice of Violation that contains same or similar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 19-May-2009 **Docket No.** 2009-0774-PWS-E **PCW**
Respondent Deadwood Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 37681 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101442523
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.46(u)
Violation Description Failed to plug Well No. 4 with cement according to the requirements set forth in 16 Tex. Admin. Code ch. 76, or to repair the well so that it is no longer in a deteriorated condition.
Base Penalty \$1,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to plug an abandoned well could expose customers of the Facility to significant amounts of contaminants that could enter the well, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 56 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the date of the investigation, March 24, 2009, to the date of case screening, May 19, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent Deadwood Water Supply Corporation
Case ID No. 37681
Reg. Ent. Reference No. RN101442523
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$750	24-Mar-2009	30-Mar-2010	1.02	\$3	\$51	\$53
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 properly plug the abandoned well in accordance with all pertinent requirements, calculated from the date of the investigation, to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$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 \$750 TOTAL \$53

Screening Date 19-May-2009	Docket No. 2009-0774-PWS-E	PCW
Respondent Deadwood Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 37681	<small>PCW Revision October 30, 2009</small>	
Reg. Ent. Reference No. RN101442523		
Media [Statute] Public Water Supply		
Enf. Coordinator Rebecca Clausewitz		
Violation Number 2		
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(D)(i) and Tex. Health & Safety Code § 341.0315(c)	
Violation Description	Failed to provide a minimum total well capacity of 0.6 gallons per minute ("gpm") per connection in pressure plane one. Specifically, with a total of 222 connections in pressure plane one, a minimum well capacity of 133 gpm should be provided. Currently, pressure plane one has a well capacity of 112 gpm, which is a 16% deficiency.	
Base Penalty		\$1,000
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Major Moderate Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Percent		10%
>> Programmatic Matrix		
Falsification	Major	Moderate
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Percent		0%
Matrix Notes	Without adequate total well capacity, customers of the water system could experience low pressure in the system, causing significant amounts of contaminants to enter the system, which would not exceed levels that are protective of human health.	
Adjustment		\$900
		\$100
Violation Events		
Number of Violation Events	1	Number of violation days 66
<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
Violation Base Penalty		\$100
One quarterly event is recommended, calculated from the date of the investigation, March 24, 2009, to the date of case screening, May 19, 2009.		
Good Faith Efforts to Comply		
0.0% Reduction		\$0
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal		\$100
Economic Benefit (EB) for this violation		
Statutory Limit Test		
Estimated EB Amount	\$22,199	Violation Final Penalty Total \$105
This violation Final Assessed Penalty (adjusted for limits)		\$105

Economic Benefit Worksheet

Respondent Deadwood Water Supply Corporation
Case ID No. 37681
Reg. Ent. Reference No. RN101442523
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$250,000	24-Mar-2009	30-Jun-2010	1.27	\$1,057	\$21,142	\$22,199
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 drill an additional well to provide additional well capacity, calculated from the date of the investigation, to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$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 \$250,000 **TOTAL** \$22,199

Screening Date 19-May-2009	Docket No. 2009-0774-PWS-E	PCW		
Respondent Deadwood Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37681	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101442523				
Media [Statute] Public Water Supply				
Enf. Coordinator Rebecca Clausewitz				
Violation Number <input type="text" value="3"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(D)(I) and Tex. Health & Safety Code § 341.0315(c)"/>			
Violation Description	<input type="text" value="Failed to provide a minimum total well capacity of 0.6 gpm per connection in pressure plane two. Specifically, with a total of 117 connections in pressure plane two, a minimum well capacity of 70 gpm should be provided. Currently, pressure plane two has a well capacity of 65 gpm, which is a 7% deficiency."/>			
Base Penalty		<input type="text" value="\$1,000"/>		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	X	
			Percent <input type="text" value="5%"/>	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="text"/>			<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Without adequate total well capacity, customers of the water system could experience low pressure in the system, causing an insignificant amount of contaminants to enter the system, which would not exceed levels that are 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="56"/> Number of violation days		
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$50"/>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
single event	X			
<input type="text" value="One single event is recommended."/>				
Good Faith Efforts to Comply		0.0% Reduction <input type="text" value="\$0"/>		
		<small>Before NOV NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	X	<small>(mark with x)</small>		
Notes	<input type="text" value="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		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$53"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$53"/>	

Economic Benefit Worksheet

Respondent Deadwood Water Supply Corporation
Case ID No. 37681
Reg. Ent. Reference No. RN101442523
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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs of this violation are included in violation no. 2.

Avoided Costs	ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personal				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 \$0

TOTAL \$0

Screening Date 19-May-2009	Docket No. 2009-0774-PWS-E	PCW																
Respondent Deadwood Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>																	
Case ID No. 37681	<small>PCW Revision October 30, 2008</small>																	
Reg. Ent. Reference No. RN101442523																		
Media [Statute] Public Water Supply																		
Enf. Coordinator Rebecca Clausewitz																		
Violation Number <input type="text" value="4"/>																		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)"/>																	
Violation Description	<input type="text" value="Failed to provide a minimum elevated storage capacity of 100 gallons per connection in pressure plane one. Specifically, with 222 connections, the Facility should provide a minimum elevated storage capacity of 22,200 gallons in pressure plane one. Currently, the Facility provides 22,000 gallons of elevated storage capacity in pressure plane one, which is a 1% deficiency."/>																	
Base Penalty		<input type="text" value="\$1,000"/>																
>> Environmental, Property and Human Health Matrix																		
	Harm																	
	Major	Moderate	Minor															
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td style="width:33%;"><input type="text"/></td> <td style="width:33%;"><input type="text"/></td> <td style="width:33%;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: center;">x</td> </tr> </table>			Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>	x							
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>															
Potential	<input type="text"/>	<input type="text"/>	x															
	Percent		<input type="text" value="5%"/>															
>> Programmatic Matrix																		
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="width:33%;"><input type="text"/></td> <td style="width:33%;"><input type="text"/></td> <td style="width:33%;"><input type="text"/></td> </tr> </table>			Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>											
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>															
	Percent		<input type="text" value="0%"/>															
Matrix Notes	<input type="text" value="Without adequate elevated storage capacity, the Facility's ability to provide a safe and adequate supply of water to its customers could be impaired and could expose the customers to an insignificant amount of contaminants, which would not exceed levels that are 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="56"/> Number of violation days																
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="7" style="vertical-align: middle;"><small>mark only one with an x</small></td> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table>		<small>mark only one with an x</small>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	
<small>mark only one with an x</small>	daily	<input type="text"/>																
	weekly	<input type="text"/>																
	monthly	<input type="text"/>																
	quarterly	<input type="text"/>																
	semiannual	<input type="text"/>																
	annual	<input type="text"/>																
	single event	x																
Violation Base Penalty		<input type="text" value="\$50"/>																
<input type="text" value="One single event is recommended."/>																		
Good Faith Efforts to Comply																		
	0.0% Reduction		<input type="text" value="\$0"/>															
	<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>																
Extraordinary	<input type="text"/>	<input type="text"/>																
Ordinary	<input type="text"/>	<input type="text"/>																
N/A	x	<small>(mark with x)</small>																
Notes	<input type="text" value="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																		
Statutory Limit Test																		
Estimated EB Amount	<input type="text" value="\$36"/>	Violation Final Penalty Total	<input type="text" value="\$53"/>															
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$53"/>															

Economic Benefit Worksheet

Respondent Deadwood Water Supply Corporation
Case ID No. 37681
Reg. Ent. Reference No. RN101442523
Media Public Water Supply
Violation No. 4

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	\$430	24-Mar-2009	30-Jun-2010	1.27	\$2	\$36	\$38
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to provide a minimum elevated storage capacity of 100 gallons per connection, calculated from the date of the investigation, to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$430

TOTAL

\$38

Compliance History Report

Customer/Respondent/Owner-Operator: CN600630982 Deadwood Water Supply Corporation Classification: Rating:
Regulated Entity: RN101442523 DEADWOOD WSC Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1830025
WATER LICENSING LICENSE 1830025
Location: 227 COUNTY ROAD 212, 2 MI E OF BECKVILLE, PANOLA COUNTY, TX
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: May 19, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 19, 2004 to May 19, 2009

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

Name: Rebecca Clausewitz Phone: (210) 403-4012

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

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

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/15/2005	(397658)
2	04/25/2008	(637648)
3	04/24/2009	(742492)

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

Date: 07/20/2005 (397658) CN600630982

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
Description: Failure to provide the chlorination room with both high level and floor level screened vents.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(5)		
Description:	Failure to record a daily chlorine residual in the distribution.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)		
Description:	Failure to read and record daily well pumpage.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(i)		
Description:	Failure to have a service agreement.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)		
Description:	Failure by the water system to employ a certified operator with a current license		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to make available during the investigation on June 1, 2005 sanitary control easements for wells #2, #3, and #4.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)		
Description:	Failure to orient the blow-off line down towards the ground.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to maintain and up-to-date map of the distribution system		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(u)		
Description:	Failure to repair or plug well #4, which has been out of operation for six months or longer.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)		
Description:	Failure to provide 0.6 gallons per minute per connection well capacity.		

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
DEADWOOD WATER SUPPLY
CORPORATION
RN101442523**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0774-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Deadwood Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 227 County Road 212, approximately two miles east of Beckville, Panola County, Texas (the "Facility") that has approximately 339 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 4, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Seven Hundred Thirty-Five Dollars (\$735) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Eighty-Eight Dollars (\$588) of the administrative penalty and One Hundred Forty-Seven Dollars (\$147) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to plug Well No. 4 with cement according to the requirements set forth in 16 TEX. ADMIN. CODE ch. 76, or to repair the well so that it is no longer in a deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u), as documented during an investigation conducted on March 24, 2009.
2. Failed to provide a minimum total well capacity of 0.6 gallons per minute ("gpm") per connection in pressure plane one, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on March 24, 2009.
3. Failed to provide a minimum total well capacity of 0.6 gpm per connection in pressure plane two, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on March 24, 2009.
4. Failed to provide a minimum elevated storage capacity of 100 gallons per connection in pressure plane one, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on March 24, 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Deadwood Water Supply Corporation, Docket No. 2009-0774-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, properly plug Well No. 4 with cement according to the requirements set forth in 16 TEX. ADMIN. CODE ch. 76, or repair the well so that it is no longer in a deteriorated condition, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a;
 - c. Within 270 days after the effective date of this Agreed Order:
 - i. Provide a minimum total well capacity of 0.6 gpm per connection in pressure planes one and two, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide a minimum elevated storage capacity of 100 gallons per connection in pressure plane one, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - d. Within 285 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 No. 2.c. 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 fines 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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. 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.
5. 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

J. Du Brulin
For the Executive Director

9/18/09
Date

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

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

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

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

J. Clayton LaGrone
Signature

sep 3, 2009
Date

J. Clayton LaGrone
Name (Printed or typed)
Authorized Representative of
Deadwood Water Supply Corporation

Vice President
Title

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

