

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1030-PWS-E TCEQ ID: RN101230282 CASE NO.: 37900

RESPONDENT NAME: Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision

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"/> IMMEDIATE 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: Tall Cedars Mobile Home Subdivision, 228 Tall Cedars Lane, Harris 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 7, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mitchell M. Martin, Jr., President, Consumers Water Inc., P.O. Box 1383, Spring, Texas 77383 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2009-1030-PWS-E

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: June 4, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 17, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide a total service pump capacity of 2.0 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$2,040</p> <p>Total Deferred: \$408 <input checked="" 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: \$432 (remaining \$1,200 due in 3 monthly payments of \$400 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 checked="" type="checkbox"/> Yes <input 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 180 days after the effective date of this Agreed Order:</p> <p>i. Provide a total storage capacity of at least 200 gallons per connection; and</p> <p>ii. Provide at least two service pumps having a total capacity of at least 2.0 gpm per connection.</p> <p>b. 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 a.</p>

Additional ID No(s): PWS ID 1010219



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	22-Jun-2009	Screening	6-Jul-2009	EPA Due	
	PCW	8-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision
Reg. Ent. Ref. No.	RN101230282
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37900	No. of Violations	2
Docket No.	2009-1030-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephen Thompson
		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* **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2.0% Enhancement *Subtotals 2, 3, & 7* **\$40**

Notes Penalty enhancement is due to one Notice of Violation that contains violations that are dissimilar to those contained 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 **\$2,412**
 Approx. Cost of Compliance **\$32,080**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$2,040**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$2,040**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$2,040**

DEFERRAL 20.0% Reduction *Adjustment* **-\$408**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$1,632**

Screening Date: 6-Jul-2009	Docket No.: 2009-1030-PWS-E	PCW
Respondent: Consumers Water Inc. dba Tall Cedars Mobile Home Su	<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 37900	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.: RN101230282		
Media [Statute]: Public Water Supply		
Enf. Coordinator: Stephen Thompson		

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>	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 2%

>> **Repeat Violator (Subtotal 3)**

N/A	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

N/A	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes

Penalty enhancement is due to one Notice of Violation that contains violations that are dissimilar to those contained in the current enforcement action.

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

Screening Date	6-Jul-2009	Docket No.	2009-1030-PWS-E	PCW
Respondent	Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision			Policy Revision 2 (September 2002)
Case ID No.	37900			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN101230282			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0316(c)
Violation Description	Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the investigation, it was documented that the Facility was required to provide 11,200 gallons of storage capacity for 56 connections. However, the Facility's 15,200-gallon storage tank had been disconnected due to its poor condition making the Facility 100 percent deficient in total storage capacity.
Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential	X			50%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 Failure to provide adequate storage capacity could result in water outages and expose consumers to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events	2	32	Number of violation days
mark only one with an x	daily		Violation Base Penalty
	weekly		
	monthly	X	
	quarterly		
	semiannual		
	annual		
	single event		
Two monthly events are recommended, calculated from the date of the investigation, June 4, 2009, to the date of screening, July 6, 2009.			\$1,000

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/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	\$1,000	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$1,810
Violation Final Penalty Total	\$1,020
This violation Final Assessed Penalty (adjusted for limits)	\$1,020

Economic Benefit Worksheet

Respondent: Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision

Case ID No.: 37900

Reg. Ent. Reference No.: RN101230282

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
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Delayed Costs

Equipment	\$24,080	4-Jun-2009	1-Jul-2010	1.07	\$86	\$1,724	\$1,810
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 adequate storage tank 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

\$24,080

TOTAL

\$1,810

Screening Date	6-Jul-2009	Docket No.	2009-1030-PWS-E	PCW
Respondent	Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	37900	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101230282			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Stephen Thompson			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health & Safety Code § 341.0315(c)			
Violation Description	<p>Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the Facility was required to provide two or more service pumps with a total capacity of 112 gpm. However, the Facility's two 112 gpm service pumps had been disconnected due to their poor condition making the Facility 100 percent deficient in total service pump capacity.</p>			
Base Penalty				\$1,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="50%"/>
>> Programmatic Matrix				
				Percent <input type="text" value="0%"/>
Matrix Notes	Failure to provide adequate service pump capacity could result in water outages and expose consumers to significant amounts of contaminants which would exceed levels protective of human health.			
Adjustment				\$500
				\$500
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	Number of violation days	
		<input type="text" value="32"/>		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
				Violation Base Penalty <input type="text" value="\$1,000"/>
<p>Two monthly events are recommended, calculated from the date of the investigation, June 4, 2009, to the date of screening, July 6, 2009.</p>				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDPR/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				\$1,000
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		<input type="text" value="\$601"/>		Violation Final Penalty Total <input type="text" value="\$1,020"/>
				This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,020"/>

Economic Benefit Worksheet

Respondent: Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision
Case ID No.: 37900
Reg. Ent. Reference No.: RN101230282
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
<small>No commas or \$</small>							

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$8,000	4-Jun-2009	1-Jul-2010	1.07	\$29	\$573	\$601
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 two or more service pumps with a total capacity of 2.0 gpm, 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)

	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

\$8,000

TOTAL

\$601

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600633853 Consumers Water Inc.	Classification:	Rating:
Regulated Entity:	RN101230282 TALL CEDARS MOBILE HOME SUBDIVISION	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	1010219 1010219
Location:	228 TALL CEDARS LN, HARRIS COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 23, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 23, 2004 to June 23, 2009		

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

Name: Stephen Thompson Phone: (512) 239-2558

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
- 6.

Components (Multimedia) for the Site :

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

N/A
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/30/2006	(489186)
2	06/17/2009	(701542)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/30/2006	(489186)	CN600633853
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to compile and maintain a plant operations manual for operator review and reference.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(4)		
Description:	Failure by a community public water system that uses purchased water or groundwater sources only to submit a Disinfectant Level Quarterly Operating Report (DL QOR).		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121		
Description:	Failure to provide a completed monitoring plan.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to properly maintain the regulated entity by not cutting the grass and		

weeds along the fence line.

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 CONSUMERS
WATER INC. DBA TALL CEDARS
MOBILE HOME SUBDIVISION
RN101230282

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1030-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 Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision ("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 228 Tall Cedars Lane in Harris County, Texas (the "Facility") that has approximately 56 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 June 22, 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 Two Thousand Forty Dollars (\$2,040) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Thirty-Two Dollars (\$432) of the administrative penalty and Four Hundred Eight Dollars (\$408) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Two Hundred Dollars (\$1,200) of the administrative penalty shall be payable in three monthly payments of Four Hundred Dollars (\$400) 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.

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 provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on June 4, 2009.
2. Failed to provide a total service pump capacity of 2.0 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on June 4, 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: Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision, Docket No. 2009-1030-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 180 days after the effective date of this Agreed Order:
 - i. Provide a total storage capacity of at least 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide at least two service pumps having a total capacity of at least 2.0 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
- b. 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.a. 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
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. 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

John Zedler
For the Executive Director

11/2/2009
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.

Mitchell M. Martin, Jr.
Signature

10-2-2009
Date

MITCHELL M. MARTIN, JR.
Name (Printed or typed)
Authorized Representative of
Consumers Water Inc. dba Tall Cedars Mobile Home Subdivision

PRESIDENT
Title

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

