EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0720-OSS-E **TCEQ ID:** RN101200111 **CASE NO.:** 35822

RESPONDENT NAME: Timpson Rural Water Supply Corporation

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Timpson Rural Water Supply, 2331 Farm-to-Market Road 2667, Timpson, Shelby County

TYPE OF OPERATION: On-site sewage facility

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 9, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387

Respondent: Mr. Billy Askins, Registered Agent, Timpson Rural Water Supply Corporation, P.O. Box 839, Timpson, Texas 75975

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 10, 2008 **Date of NOV/NOE Relating to this Case:** April 15, 2008 (NOE) **Background Facts:** This was a record review. **WATER** 1) Failure to install an additional two-way cleanout plug every 50 feet [30 TEX. ADMIN. CODE § 285.32(a)(5)]. 2) Failure to install an inspection port at the end of each gravel-less line and to install the gravel-less line level [30 TEX. ADMIN. CODE § 285.33(c)(1)(B)]. 3) Failure to obtain approval before use of the Facility [30 TEX. ADMIN. CODE § 285.3(d)(4) and TEX. HEALTH & SAFETY CODE § 366.056(b)].	**Total Assessed:** $570 **Total Deferred:** $114 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $456 **Site Compliance History Classification** ___ **High** ___ **Average** ___ **Poor** **Person Compliance History Classification** ___ **High** ___ **Average** ___ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, cease use of the Facility until Notice of Approval has been obtained by the permitting authority; and b. Within 60 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.

Additional ID No(s).:

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision March 8, 2008*

TCEQ

DATES					
Assigned	15-Apr-2008				
PCW	29-Apr-2008	Screening	30-Apr-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Timpson Rural Water Supply Corporation		
Reg. Ent. Ref. No.	RN101200111		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35822	No. of Violations	3
Docket No.	2008-0720-OSS-E	Order Type	1660
Media Program(s)	On-Site Sewage Disposal	Enf. Coordinator	Andrew Hunt
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 14% Enhancement — *Subtotals 2, 3, & 7* $70

Notes: An enhancement is recommended due to two same or similar NOVs and two unrelated NOVs.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* $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.

0% Enhancement* — *Subtotal 6* $0

Total EB Amounts	$203
Approx. Cost of Compliance	$1,900

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $570

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $570

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $570

DEFERRAL — 20% Reduction — *Adjustment* -$114

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 $456

Screening Date 30-Apr-2008 **Docket No.** 2008-0720-OSS-E **PCW**

Respondent Timpson Rural Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 35822 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101200111

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Andrew Hunt

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*)	2	10%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 14%

>> 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

An enhancement is recommended due to two same or similar NOVs and two unrelated NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 30-Apr-2008 **Docket No.** 2008-0720-OSS-E **PCW**

Respondent Timpson Rural Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 35822 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101200111

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Andrew Hunt

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 285.32(a)(5)

Violation Description Failed to install an additional two-way cleanout plug every 50 feet, as documented in a record review on April 10, 2008.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment $2,375

$125

Violation Events

Number of Violation Events 1 — 20 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $125

One single event is recommended.

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $21 **Violation Final Penalty Total** $143

This violation Final Assessed Penalty (adjusted for limits) $143

Economic Benefit Worksheet

Respondent Timpson Rural Water Supply Corporation
Case ID No. 35822
Reg. Ent. Reference No. RN101200111
Media On-Site Sewage Disposal
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$200	22-Feb-2007	31-Aug-2008	1.5	$1	$20	$21
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated costs to install a two-way cleanout plug. The date required is the date of the initial investigation. The final date is the expected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $200

TOTAL: $21

Screening Date 30-Apr-2008 **Docket No.** 2008-0720-OSS-E **PCW**

Respondent Timpson Rural Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 35822 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101200111

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Andrew Hunt

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 285.33(c)(1)(B)

Violation Description Failed to install an inspection port at the end of each gravel-less line and to install the gravel-less line level, as documented in a record review on April 10, 2008.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment $2,375

$125

Violation Events

Number of Violation Events 1 — 20 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $125

One single event is recommended.

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $160 **Violation Final Penalty Total** $143

This violation Final Assessed Penalty (adjusted for limits) $143

Economic Benefit Worksheet

Respondent Timpson Rural Water Supply Corporation
Case ID No. 35822
Reg. Ent. Reference No. RN101200111
Media On-Site Sewage Disposal
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$1,500	22-Feb-2007	31-Aug-2008	1.5	$8	$152	$160
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated costs to install an inspection port at the end of each gravel-less line and to install the gravel-less line level. The date required is the date of initial investigation. The final date is the expected date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,500

TOTAL $160

Screening Date 30-Apr-2008 **Docket No.** 2008-0720-OSS-E **PCW**

Respondent Timpson Rural Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 35822 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101200111

Media [Statute] On-Site Sewage Disposal

Enf. Coordinator Andrew Hunt

Violation Number 3

Rule Cite(s) Tex. Health & Safety Code § 366.056(b) and 30 Tex. Admin. Code § 285.3(d)(4)

Violation Description Failed to obtain approval before use of the Facility, as documented in a record review on April 10, 2008.

Base Penalty $2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $2,250

$250

Violation Events

Number of Violation Events 1 — 20 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended from date of record review (4/10/2008) to date of screening (4/30/3008).

Economic Benefit (EB) for this violation

Estimated EB Amount $21

Statutory Limit Test

Violation Final Penalty Total $285

This violation Final Assessed Penalty (adjusted for limits) $285

Economic Benefit Worksheet

Respondent Timpson Rural Water Supply Corporation
Case ID No. 35822
Reg. Ent. Reference No. RN101200111
Media On-Site Sewage Disposal
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$200	22-Feb-2007	31-Aug-2008	1.5	$1	$20	$21
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost of re-inspection fee by TCEQ regional staff. The date required is the date of initial investigation. The final date is the date of expected compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $200

TOTAL $21

Compliance History

Customer/Respondent/Owner-Operator:	CN601359284	Timpson Rural Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101200111	TIMPSON RURAL WATER SUPPLY	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2100015
	WATER LICENSING	LICENSE	2100015
	ON SITE SEWAGE FACILITY	PERMIT	2100410
Location:	2331 FM 2667, TIMPSON, SHELBY CO, TX		

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: May 01, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 01, 2003 to May 01, 2008

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

Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 04/22/2004 (269821)
2 02/28/2007 (542101)
3 08/03/2007 (566417)
4 01/09/2008 (612733)
5 04/15/2008 (646181)

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

Date: 04/23/2004 (269821)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)

Description: Failure to have a self contained breathing apparatus (SCBA) at each plant where chlorine gas is used.

Self Report? NO Classification: Moderate

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

Description: Failure to prevent livestock from being within 50 feet of wells.

Self Report? NO Classification: Minor

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

Description: Failure to inspect the interiors of the pressure tanks.

Date: 02/28/2007 (542101)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 285, SubChapter D 285.32(a)(5)

Description: Failure to provide a cleanout every 50 feet.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 285, SubChapter D 285.33(c)(1)(B)

Description: Failure to install an inspection port. Failure to install the gravelless pipe level.

Date 08/01/2007 (566417)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)

Description: Failure to have a self contained breathing apparatus (SCBA) at each plant where chlorine gas is used.

Self Report? NO Classification: Moderate

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

Description: Failure to prevent livestock from being within 50 feet of wells.

Self Report? NO Classification: Minor

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

Description: Failure to inspect the interiors of the pressure tanks.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)

Description: Failure to maintain records of chlorine residual sampling.

Self Report? NO Classification: Minor

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

Description: Failure to perform the annual tank inspections on the ground storage and pressure tanks.

Self Report? NO Classification: Minor

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

Description: Failure to maintain the liquid level indicator on the ground storage tank at Plant No. 1.

Self Report? NO Classification: Minor

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

Description: Failure to maintain the exterior coating on the ground storage tank at Plant No. 1.

Self Report? NO Classification: Minor

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

Description: Failure to maintain the gas chlorine cylinder scale at Plant No. 2.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to provide an appropriate well casing vent at remote well No. 2C.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to provide an appropriate well casing vent at remote well No. 3B.

Self Report? NO Classification: Minor

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

Description: Failure to have a system ownership sign at remote Well No. 3B.

Date 01/09/2008 (612733)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 285, SubChapter D 285.32(a)(5)

Description: Failure to provide a cleanout every 50 feet.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 285, SubChapter D 285.33(c)(1)(B)

Description: Failure to install an inspection port. Failure to install the gravelless pipe level.

Self Report? NO Classification: Moderate

Citation: 5B THSC Chapter 366, SubChapter A 366.056(b)

Description: Failure to obtain approval before operationing of the on-site sewage facility.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
TIMPSON RURAL WATER SUPPLY	§	
CORPORATION	§	
RN101200111	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0720-OSS-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 Timpson Rural Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 366 and TEX. WATER CODE ch. 7. 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 an on-site sewage facility at 2331 Farm-to-Market Road 2667, Timpson, Shelby County, Texas (the "Facility").

2. The TCEQ has general authority concerning the location, design, construction, installation, and proper functioning of an OSSF pursuant to TEX. HEALTH & SAFETY CODE ch. 366.

3. 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.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 20, 2008.

5. 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.

6. An administrative penalty in the amount of Five Hundred Seventy Dollars ($570) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The

Respondent has paid Four Hundred Fifty-Six Dollars ($456) of the administrative penalty and One Hundred Fourteen Dollars ($114) 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.

7. 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.

8. 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.

9. 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.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to install an additional two-way cleanout plug every 50 feet, in violation of 30 TEX. ADMIN. CODE § 285.32(a)(5), as documented in a record review on April 10, 2008.

2. Failed to install an inspection port at the end of each gravel-less line and to install the gravel-less line level, in violation of 30 TEX. ADMIN. CODE § 285.33(c)(1)(B), as documented in a record review on April 10, 2008.

3. Failed to obtain approval before use of the Facility, in violation of TEX. HEALTH & SAFETY CODE § 366.056(b) and 30 TEX. ADMIN. CODE § 285.3(d)(4), as documented in a record review on April 10, 2008.

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 6 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: Timpson Rural Water Supply Corporation, Docket No. 2008-0720-OSS-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. Immediately upon the effective date of this Agreed Order, cease use of the Facility until Notice of Approval has been obtained by the permitting authority; and

   b. Within 60 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.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 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
      Beaumont Regional Office
      Texas Commission on Environmental Quality
      3870 Eastex Freeway
      Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.

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. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. 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

_____ 2/5/2009
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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.

_____ 6-21-08
Signature Date

Billy Askins _____ Operator
Name (Printed or typed) Title
Authorized Representative of
Timpson Rural Water Supply Corporation

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.