

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1688-PWS-E **TCEQ ID:** RN101453124 **CASE NO.:** 36705

**RESPONDENT NAME:** Foster Consolidated Investments, L.L.C. dba Walburg Water System

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Walburg Water System, 3777 Farm-to-Market Road 972, Williamson County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 20, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> 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  <b>Respondent:</b> Mr. Doyle Foster, Owner, Foster Consolidated Investments, L.L.C., P.O. Box 123, Weir, Texas 78674  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> October 1, 2008</p> <p><b>Date of NOE Relating to this Case:</b> October 10, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(ii) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p>	<p><b>Total Assessed:</b> \$168</p> <p><b>Total Deferred:</b> \$33  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$135</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 90 days after the effective date of this Agreed Order:</p> <p>i. Provide a total storage capacity of 200 gallons per connection; and</p> <p>ii. Ensure that all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances are maintained in a watertight condition including, but not limited to, the well discharge line on Well No. 1.</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>

Additional ID No(s): PWS ID 2460016



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Oct-2008	<b>Screening</b>	24-Oct-2008	<b>EPA Due</b>	
	<b>PCW</b>	24-Oct-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Foster Consolidated Investments, L.L.C. dba Walburg Water System
<b>Reg. Ent. Ref. No.</b>	RN101453124
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36705	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-1688-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Stephen Thompson
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$150
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	12.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$18
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**Notes**  
Enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same or similar to violations in the current enforcement action and one dissimilar NOV.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**  
The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$331  
Approx. Cost of Compliance \$4,170  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$168
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$168
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$168
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$33
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**  
Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$135
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Screening Date 24-Oct-2008

Docket No. 2008-1688-PWS-E

PCW

Respondent Foster Consolidated Investments, L.L.C. dba Walburg W

Policy Revision 2 (September 2002)

Case ID No. 36705

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101453124

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 (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
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) 12%

#### >> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same or similar to violations in the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

<b>Screening Date</b> 24-Oct-2008		<b>Docket No.</b> 2008-1688-PWS-E		<b>PCW</b>	
<b>Respondent</b> Foster Consolidated Investments, L.L.C. dba Walburg Water System		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36705		<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101453124					
<b>Media [Statute]</b> Public Water Supply					
<b>Enf. Coordinator</b> Stephen Thompson					
<b>Violation Number</b>		<input type="text" value="1"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(B)(ii) and Tex. Health &amp; Safety Code § 341.0315(c)"/>			
<b>Violation Description</b>		<input type="text" value="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 should be providing a total storage capacity of 6,800 gallons with 34 connections. The Facility is currently providing a total storage capacity of 5,000 gallons which is 26% deficient."/>			
<b>Base Penalty</b>				<input type="text" value="\$1,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	
				<b>Percent</b> <input type="text" value="10%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>	
<b>Matrix Notes</b>	<input type="text" value="Failure to provide adequate storage capacity could result in water outages and expose consumers to significant amounts of contaminants which would not exceed levels protective of human health."/>				
<b>Adjustment</b>				<input type="text" value="\$900"/>	
				<input type="text" value="\$100"/>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="23"/>	<b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>		
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	<input type="text"/>	x		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input type="text"/>	<input type="text"/>		
				<b>Violation Base Penalty</b>	<input type="text" value="\$100"/>
<input type="text" value="One quarterly event is recommended, calculated from the date of the record review, October 1, 2008, to the screening date, October 24, 2008."/>					
<b>Good Faith Efforts to Comply</b>					
		<b>0.0% Reduction</b>		<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
N/A	x	(mark with x)			
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
<b>Violation Subtotal</b>				<input type="text" value="\$100"/>	
<b>Economic Benefit (EB) for this violation</b>					
		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$307"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$112"/>
				<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
				<input type="text" value="\$112"/>	

### Economic Benefit Worksheet

**Respondent:** Foster Consolidated Investments, L.L.C. dba Walburg Water System  
**Case ID No.:** 36705  
**Reg. Ent. Reference No.:** RN101453124  
**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
No commas or \$							

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$3,870	13-May-2008	1-Jul-2009	1.13	\$15	\$293	\$307
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 cost includes the estimated cost necessary to provide the Facility with an additional 1,800 gallons of ground storage capacity. The date required is the date of the investigation originally documenting the violation and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$3,870

**TOTAL** \$307

<b>Screening Date</b> 24-Oct-2008		<b>Docket No.</b> 2008-1688-PWS-E		<b>PCW</b>
<b>Respondent</b> Foster Consolidated Investments, L.L.C. dba Walburg Water Systerr		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36705		<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101453124				
<b>Media [Statute]</b> Public Water Supply				
<b>Enf. Coordinator</b> Stephen Thompson				
<b>Violation Number</b>		<input type="text" value="2"/>		
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 290.46(m)(4)"/>		
<b>Violation Description</b>		<input type="text" value="Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition. Specifically, at the time of the investigation, it was documented that the well discharge line on Well No. 1 had a small leak."/>		
<b>Base Penalty</b>				<input type="text" value="\$1,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	x	<input type="text"/>
<b>Percent</b>				<input type="text" value="5%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>		Major	Moderate	Minor
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>				<input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Failure to maintain the Facility in a watertight condition could expose the water supply to an insignificant amount of contaminants which would not exceed levels protective of human health."/>			
<b>Adjustment</b>				<input type="text" value="\$950"/>
				<input type="text" value="\$50"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="23"/>	<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>	<b>Violation Base Penalty</b>
	monthly	<input type="text"/>	<input type="text"/>	
	quarterly	<input type="text"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	
	single event	x	<input type="text"/>	
<input type="text" value="One single event is recommended."/>				<input type="text" value="\$50"/>
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	x	(mark with x)		
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
<b>Violation Subtotal</b>				<input type="text" value="\$50"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$24"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$56"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$56"/>

### Economic Benefit Worksheet

**Respondent:** Foster Consolidated Investments, L.L.C. dba Walburg Water System  
**Case ID No.:** 36705  
**Reg. Ent. Reference No.:** RN101453124  
**Media:** Public Water Supply  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)	\$300	13-May-2008	1-Jul-2009	1.13	\$1	\$23
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed costs include the amount necessary to make repairs to the well discharge line that will stop its leak. The date required is date of the investigation originally documenting the violation and the final date is 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 \$300

**TOTAL** \$24

# Compliance History

Customer/Respondent/Owner-Operator:	CN602624124	Foster Consolidated Investments, L.L.C.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101453124	WALBURG WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION		2460016	
Location:	3777 FM 972, WILLIAMSON COUNTY, TX			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	October 23, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 23, 2003 to October 23, 2008			

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

### 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	05/04/2006	(459577)
2	04/25/2008	(681046)
3	05/21/2008	(654833)
4	08/29/2008	(701659)
5	10/06/2008	(704361)

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

Date: 05/03/2006 (459577)

Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description: Failure to provide a flow measuring device on each well.		
Self Report? NO		Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(ii)		
Description: The water system failed to provide a storage tank capacity of at least 200 gallons per connection.		

Date: 04/25/2008 (681046)

Self Report? NO		Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)		
Description: BACT - MONITORING/REPORTING VIOLATIONS		

Date: 05/23/2008

Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description: Failure to provide a flow measuring device on each well.		
Self Report? NO		Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(ii)		
Description: The water system failed to provide a storage tank capacity of at least 200 gallons per connection.		
Self Report? NO		Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description: The water system failed to maintain the well discharge line in a watertight condition. A small leak was present at the time of the investigation.		

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 FOSTER  
CONSOLIDATED INVESTMENTS,  
L.L.C. DBA WALBURG WATER  
SYSTEM  
RN101453124

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1688-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 Foster Consolidated Investments, L.L.C. dba Walburg Water System ("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 3777 Farm-to-Market Road 972 in Williamson County, Texas (the "Facility") that has approximately 34 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 October 15, 2008.
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 One Hundred Sixty-Eight Dollars (\$168) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Thirty-Five Dollars (\$135) of the administrative penalty and Thirty-Three Dollars (\$33) 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 provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on October 1, 2008.
2. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4), as documented during a record review conducted on October 1, 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 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: Foster Consolidated Investments, L.L.C. dba Walburg Water System, Docket No. 2008-1688-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:
    - i. Provide a total storage capacity of 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
    - ii. Ensure that all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances are maintained in a watertight condition including, but not limited to, the well discharge line on Well No. 1, as required by 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 105 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

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 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.
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 Erdlin  
For the Executive Director

\_\_\_\_\_  
Date 3/24/2009

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.

Doyle Foster  
Signature

\_\_\_\_\_  
Date 2/12/09

Doyle Foster  
Name (Printed or typed)  
Authorized Representative of  
Foster Consolidated Investments, L.L.C.  
dba Walburg Water System

\_\_\_\_\_  
Title OWNER

**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.

