

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1784-PWS-E **TCEQ ID:** RN101198000 **CASE NO.:** 36813

**RESPONDENT NAME:** Marlow Water Supply Corporation

<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> Marlow WSC, 462 West Farm-to-Market Road 485, Cameron, Milam 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> Ms. Yuliya Dunaway, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4077; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Mike Noker, President, Marlow Water Supply Corporation, P.O. Box 150, Cameron, Texas 76520-0150  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 7, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 31, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to provide a liquid level indicator located at the tank site for all water storage tanks [30 TEX. ADMIN. CODE § 290.43(c)(4)].</p> <p>2) Failure to provide the well casing vent with a 16-mesh or finer corrosion-resistant screen [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].</p> <p>3) Failure to obtain approval by the Executive Director prior to using a well as a public water supply source [30 TEX. ADMIN. CODE § 290.41(c)(3)(A)].</p>	<p><b>Total Assessed:</b> \$255</p> <p><b>Total Deferred:</b> \$51  <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> \$204</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 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. As of October 21, 2008, installed a liquid level indicator on the ground storage tank at Plant No. 1;</p> <p>b. As of October 21, 2008, covered the vent opening with 16-mesh or finer corrosion-resistant screen at Well No. 2; and</p> <p>c. On December 19, 2008, obtained interim approval for use of Well No. 4.</p>

Additional ID No(s): PWS ID No.1660014



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ DATES	Assigned	3-Nov-2008		
	PCW	14-Nov-2008	Screening	14-Nov-2008
		EPA Due		

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Marlow Water Supply Corporation		
Reg. Ent. Ref. No.	RN101198000		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36813	No. of Violations	3
Docket No.	2008-1784-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$300</b>
---	-------------------	--------------

**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>	<b>5.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$15</b>
---------------------------	-------------------------	--------------------------------	-------------

Notes	The penalty enhancement is due to one prior NOV for the same or similar violations as those in the current enforcement action.
-------	--

<b>Culpability</b>	<b>No</b>	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
--------------------	-----------	-------------------------	-------------------	------------

Notes	The Respondent does not meet the culpability criteria.
-------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$60</b>
--	-------------------	-------------

<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
-------------------------	--------------------------	-------------------	------------

Total EB Amounts	\$1,852
Approx. Cost of Compliance	\$50,325

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$255</b>
-----------------------------	-----------------------	--------------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
---	-------------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	<b>\$255</b>
-----------------------------	--------------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$255</b>
-----------------------------------	-------------------------------	--------------

<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$51</b>
-----------------	------------------------	-------------------	--------------

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>	<b>\$204</b>
------------------------	--------------

Screening Date 14-Nov-2008

Docket No. 2008-1784-PWS-E

PCW

Respondent Marlow Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 36813

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101198000

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

## Compliance History Worksheet

## &gt;&gt; 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)	1	5%
	Other written NOVs	0	0%
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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

The penalty enhancement is due to one prior NOV for the same or similar violations as those in the current enforcement action.

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

<b>Screening Date</b> 14-Nov-2008	<b>Docket No.</b> 2008-1784-PWS-E	<b>PCW</b>
<b>Respondent</b> Marlow Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 36813		<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.</b> RN101198000		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Yuliya Dunaway		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 290.43(c)(4)"/>	
<b>Violation Description</b>	<input type="text" value="Failed to provide a liquid level indicator located at the tank site for all water storage tanks. Specifically, at the time of the investigation, it was documented that the ground storage tank located closest to the front fence line at Plant No.1 was not equipped with a liquid level indicator."/>	
<b>Base Penalty</b>	<input type="text" value="\$1,000"/>	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
Potential	<input type="text"/>	x	<input type="text"/>		

**>> Programmatic Matrix**

	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 have a liquid level indicator on the ground storage tank can contribute to an inadequate water supply because the operator cannot make the necessary usage and production calculations which could potentially expose the public to a significant amount of contaminants that would not exceed levels protective of human health."/>				
<b>Adjustment</b>	<input type="text" value="\$900"/>				

**Violation Events**

<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="14"/>															
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b>	<input type="text" value="\$100"/>	
daily	<input type="text"/>																	
weekly	<input type="text"/>																	
monthly	<input type="text"/>																	
quarterly	x																	
semiannual	<input type="text"/>																	
annual	<input type="text"/>																	
single event	<input type="text"/>																	
<input type="text" value="One quarterly event is recommended from the date of the investigation, October 7, 2008, to the date of compliance, October 21, 2008."/>																		

**Good Faith Efforts to Comply**

	<b>25.0% Reduction</b>		<input type="text" value="\$25"/>
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	x	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on October 21, 2008."/>		
<b>Violation Subtotal</b>	<input type="text" value="\$75"/>		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	<b>Violation Final Penalty Total</b>
<input type="text" value="\$1"/>	<input type="text" value="\$80"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
<input type="text" value="\$80"/>	

### Economic Benefit Worksheet

**Respondent:** Marlow Water Supply Corporation  
**Case ID No.:** 36813  
**Reg. Ent. Reference No.:** RN101198000  
**Media:** Public Water Supply  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$300	7-Oct-2008	21-Oct-2008	0.04	\$0	\$1	\$1
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 amount to install a water level indicator on the water system's ground storage tank, calculated from the date of the investigation to the 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

\$300

**TOTAL**

\$1

**Screening Date** 14-Nov-2008 **Docket No.** 2008-1784-PWS-E **PCW**  
**Respondent** Marlow Water Supply Corporation *Policy Revision 2 (September 2002)*  
**Case ID No.** 36813 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101198000  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Yuliya Dunaway  
**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

**Notes**

**Violation Subtotal**

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

Estimated EB Amount  Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

**Respondent** Marlow Water Supply Corporation  
**Case ID No.** 36813  
**Reg. Ent. Reference No.** RN101198000  
**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
No commas or \$							

**Delayed Costs**

Equipment	\$25	7-Oct-2008	21-Oct-2008	0.04	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to provide the well with a screened casing vent, calculated from the date of the investigation to the 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

\$25

**TOTAL**

\$0

**Screening Date** 14-Nov-2008 **Docket No.** 2008-1784-PWS-E **PCW**  
**Respondent** Marlow Water Supply Corporation *Policy Revision 2 (September 2002)*  
**Case ID No.** 36813 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101198000  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Yuliya Dunaway  
**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.41(c)(3)(A)  
**Violation Description** Failed to obtain approval by the Executive Director prior to using a well as a public water supply source. Specifically, at the time of the investigation, it was documented that the Facility was utilizing a well (Well No. 4) as a water supply source that has not been approved for use.  
**Base Penalty** \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

100% of this rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 38 Number of violation days

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$10

	10.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes: The well was approved for interim use on December 19, 2008.

Violation Subtotal \$90

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1,851 Violation Final Penalty Total \$95

This violation Final Assessed Penalty (adjusted for limits) \$95

### Economic Benefit Worksheet

**Respondent:** Marlow Water Supply Corporation  
**Case ID No.:** 36813  
**Reg. Ent. Reference No.:** RN101198000  
**Media:** Public Water Supply  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$50,000	9-Jun-2008	19-Dec-2008	0.53	\$88	\$1,763	\$1,851
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 to submit plans and specifications to obtain approval for use of Well No. 4, calculated from the date the Respondent was notified that the well could not be approved for use to the 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	\$50,000	<b>TOTAL</b>	\$1,851
----------------------------	----------	--------------	---------

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600643266 Marlow Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101198000 MARLOW WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1660014
	WATER LICENSING	LICENSE	1660014
Location:	462 W FM ROAD 485, CAMERON, MILAM COUNTY, TEXAS		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	November 14, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 14, 2003 to November 14, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Yuliya Dunaway	Phone:	210-403-4077

## 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 | 12/23/2004 | (340126) |
| 2 | 10/30/2008 | (705486) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |                       |
|--------------|---|-----------------------|
| Date:        | 12/23/2004  | (340126)              |
| Self Report? | NO  | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)  |                       |
| Description: | Failure to provide a concrete sealing block extending a least three feet in all directions from the well casing on Well #2. |                       |
| Self Report? | NO  | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(v)  |                       |
| Description: | Failure to install electrical wiring in a securely mounted conduit in accordance with local and national electrical codes.  |                       |
| Self Report? | NO  | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(P)  |                       |
| Description: | Failure to provide an all-weather road to Well #2.  |                       |
| Self Report? | NO  | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.43(c)(4)   |                       |
| Description: | Failure to provide a water level indicator for the ground storage tank.   |                       |
| Self Report? | NO  | Classification: Minor |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)(2)   |                       |
| Description: | Failure to provide water system records that needed to be reviewed 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  
MARLOW WATER SUPPLY  
CORPORATION  
RN101198000

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1784-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 Marlow Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 462 West Farm-to-Market Road 485 in Cameron, Milam County, Texas (the "Facility") that has approximately 188 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 November 5, 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 Two Hundred Fifty-Five Dollars (\$255) is assessed the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Four Dollars (\$204) of the administrative penalty and Fifty-One Dollars (\$51) 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. As of October 21, 2008, installed a liquid level indicator on the ground storage tank at Plant No. 1;
  - b. As of October 21, 2008, covered the vent opening with 16-mesh or finer corrosion-resistant screen at Well No. 2; and
  - c. On December 19, 2008, obtained interim approval for use of Well No. 4.
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 provide a liquid level indicator located at the tank site for all water storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4), as documented during an investigation conducted on October 7, 2008.
2. Failed to provide the well casing vent with a 16-mesh or finer corrosion-resistant screen, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on October 7, 2008.
3. Failed to obtain approval by the Executive Director prior to using a well as a public water supply source, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A), as documented during an investigation conducted on October 7, 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: Marlow Water Supply Corporation, Docket No. 2008-1784-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. 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 reference.
3. 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.
4. 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.
5. 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 Srdin  
\_\_\_\_\_  
For the Executive Director

4/3/2009  
\_\_\_\_\_  
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.

Mike Noker  
\_\_\_\_\_  
Signature

2/9/09  
\_\_\_\_\_  
Date

Mike Noker  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Marlow Water Supply Corporation

President  
\_\_\_\_\_  
Title

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