

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1942-MLM-E **TCEQ ID:** RN105215651 **CASE NO.:** 36946

RESPONDENT NAME: Lake Whitney Resorts, LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" 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 checked="" type="checkbox"/> WATER RIGHTS
<p>SITE WHERE VIOLATION(S) OCCURRED: Lake Whitney RV & Golf, 255 Suncountry Drive, Whitney, Hill County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 18, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Paul S. Bissing, Owner, Lake Whitney Resorts, LLC, P.O. Box 1577, Whitney, Texas 76692 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 6, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 10, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" license [30 TEX. ADMIN. CODE § 290.46(e)(3)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)].</p> <p>2) Failure to provide a purchase water contract in order to properly evaluate the Facility's production, storage, service pump or pressure maintenance capacity [30 TEX. ADMIN. CODE § 290.45(f)(1), 290.45(f)(4), and 290.45(f)(5)].</p> <p>3) Failure to provide an up-to-date map of the distribution system [30 TEX. ADMIN. CODE § 290.46(n)(2)].</p> <p>4) Failure to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)].</p> <p>5) Failure to provide Facility records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(A)(iv)].</p> <p>6) Failure to maintain a supply of calcium hypochlorite disinfectant on hand for use when making repairs, setting meters, and disinfecting new mains prior to placing them in service [30 TEX. ADMIN. CODE § 290.46(h)].</p>	<p>Total Assessed: \$5,094</p> <p>Total Deferred: \$1,018 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$116 (remaining \$3,960 due in 36 monthly payments of \$110 each)</p> <p>Water Rights & Public Water Supply Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On November 18, 2008, provided the distribution map with the flush and gate valves;</p> <p>b. On November 18, 2008, provided a copy of the Drought Contingency Plan;</p> <p>c. On November 18, 2008, provided a copy of an up-to-date chemical and microbiological monitoring plan;</p> <p>d. On November 20, 2008, provided a copy of the plant operations manual; and</p> <p>e. On January 21, 2009, submitted a copy of the water operator's Class "D" license certificate that was issued on January 21, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order:</p> <p>i. Begin monitoring and recording the disinfectant residual at representative locations in the distribution system at least once every seven days; and</p> <p>ii. Ensure there is a supply of calcium hypochlorite on hand for use when making repairs, setting meters and disinfecting new mains prior to placing them in service.</p> <p>b. Within 30 days after the effective date of this Agreed Order, compile and begin maintaining properly completed monthly water works operation records and maintenance records, including but not limited to flushing records, and make them available at the time of Commission inspections;</p> <p>c. Within 45 days after the effective of this Agreed Order, submit written certification</p>

<p>7) Failure to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and 290.121(b)(1)].</p> <p>8) Failure to compile and maintain a plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(1)].</p> <p>9) Failure to submit a Drought Contingency Plan which includes all elements for municipal use by a retail public water supplier [30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B)].</p>		<p>and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p> <p>d. Within 180 days after the effective date of this Agreed Order, provide a water purchase contract that authorizes a daily purchase rate to meet a production capacity of 0.6 gallons per minute (“gpm”) per connection and maintain an hourly purchase rate to meet a service pump capacity of 2.0 gpm per connection; and</p> <p>e. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision d.</p>
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Additional ID No(s): 1090075



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	15-Dec-2008			
	PCW	17-Dec-2008	Screening	17-Dec-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Lake Whitney Resorts, LLC
Reg. Ent. Ref. No.	RN105215651
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36946	No. of Violations	1
Docket No.	2008-1942-MLM-E	Order Type	1660
Media Program(s)	Water Rights	Government/Non-Profit	No
Multi-Media	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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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.

Compliance History	26.0% Enhancement	Subtotals 2, 3, & 7	\$130
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Notes: The penalty enhancement is due to one agreed final enforcement order containing a denial of liability and three prior dissimilar Notices of Violation.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1
 Approx. Cost of Compliance \$300
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$505
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$505

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$505
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DEFERRAL	20.0% Reduction	Adjustment	-\$101
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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.

PAYABLE PENALTY	\$404
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Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW
Respondent Lake Whitney Resorts, LLC		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36946		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN105215651		
Media [Statute] Water Rights		
Enf. Coordinator Epifanio Villarreal		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 26%

>> Repeat Violator (Subtotal 3)

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

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	The penalty enhancement is due to one agreed final enforcement order containing a denial of liability and three prior dissimilar Notices of Violation.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 26%

Screening Date 17-Dec-2008 **Docket No.** 2008-1942-MLM-E **PCW**
Respondent Lake Whitney Resorts, LLC *Policy Revision 2 (September 2002)*
Case ID No. 36946 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN105215651
Media [Statute] Water Rights
Enf. Coordinator Epifanio Villarreal
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix
OR

		Harm			
		Major	Moderate	Minor	
Release	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification		<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

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 type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<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 Lake Whitney Resorts, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Water Rights
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	6-Nov-2008	18-Nov-2008	0.03	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide a copy of the Drought Contingency Plan, 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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

DATES	Assigned	15-Dec-2008	Screening	17-Dec-2008	EPA Due	
	PCW	17-Dec-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Lake Whitney Resorts, LLC		
Reg. Ent. Ref. No.	RN105215651		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36946	No. of Violations	8
Docket No.	2008-1942-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media	Water Rights	Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum		\$50	Maximum
			\$1,000

Penalty Calculation Section							
TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>		\$3,470				
ADJUSTMENTS (+/-) TO SUBTOTAL 1							
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.							
Compliance History	26.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$902				
Notes	The penalty enhancement is due to one agreed final enforcement order containing a denial of liability and three prior dissimilar Notices of Violation.						
Culpability	No 0.0% Enhancement	<i>Subtotal 4</i>	\$0				
Notes	The Respondent does not meet the culpability criteria.						
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i>	\$102				
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Total EB Amounts</td> <td style="width: 50%; text-align: right;">\$733</td> </tr> <tr> <td>Approx. Cost of Compliance</td> <td style="text-align: right;">\$6,231</td> </tr> </table>		Total EB Amounts	\$733	Approx. Cost of Compliance	\$6,231	*Capped at the Total EB \$ Amount	
Total EB Amounts	\$733						
Approx. Cost of Compliance	\$6,231						
SUM OF SUBTOTALS 1-7		<i>Final Subtotal</i>	\$4,270				
OTHER FACTORS AS JUSTICE MAY REQUIRE	7.5%	<i>Adjustment</i>	\$319				
Notes	Enhancement recommended for recovery of avoided costs of compliance.						
		<i>Final Penalty Amount</i>	\$4,589				
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i>	\$4,589				
DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$917				
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			\$3,672				

Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW
Respondent Lake Whitney Resorts, LLC		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36946		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN105215651		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 26%

>> Repeat Violator (Subtotal 3)

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

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	The penalty enhancement is due to one agreed final enforcement order containing a denial of liability and three prior dissimilar Notices of Violation.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 26%

Screening Date 17-Dec-2008 **Docket No.** 2008-1942-MLM-E **PCW**

Respondent Lake Whitney Resorts, LLC *Policy Revision 2 (September 2002)*

Case ID No. 36946 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN105215651

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent <input type="text" value="25%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

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" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply **\$50**

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

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 Lake Whitney Resorts, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$111	6-Nov-2008	21-Jan-2009	0.21	\$1	n/a	\$1

Notes for DELAYED costs

The delayed costs include the testing cost to obtain a Class "D" license. The date required is the investigation date and the final date is the date the license was issued.

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

\$111

TOTAL

\$1

Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW		
Respondent Lake Whitney Resorts, LLC	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36946	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN105215651				
Media [Statute] Public Water Supply				
Enf. Coordinator Epifanio Villarreal				
Violation Number 2				
Rule Cite(s)	30 Tex. Admin. Code § 290.45(f)(1), 290.45(f)(4) and 290.45(f)(5)			
Violation Description	Failed to provide a purchase water contract in order to properly evaluate the Facility's production, storage, service pump or pressure maintenance capacity. Specifically, at the time of the investigation, it was documented that the Facility does not have a purchase water contract with its provider. Since the Facility purchases water under direct pressure, the production and service pump capacity could not be evaluated without a contract; therefore, the Facility is considered 100% deficient for capacity.			
Base Penalty		\$1,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	0%	
Matrix Notes	By failing to have a purchase water contract, the Facility cannot ensure that customers are provided with an adequate supply of water. As a result, customers could be exposed to a significant amount of contaminants that exceed levels protective of human health.			
Adjustment		\$750		
		\$250		
Violation Events				
Number of Violation Events		2	41	
		Number of violation days		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
		Violation Base Penalty	\$500	
		Two monthly events are recommended from the date of the investigation, November 6, 2008, to the date of screening, December 17, 2008.		
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$500		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$404	Violation Final Penalty Total	\$677	
		This violation Final Assessed Penalty (adjusted for limits)		
		\$677		

Economic Benefit Worksheet

Respondent: Lake Whitney Resorts, LLC
Case ID No.: 36946
Reg. Ent. Reference No.: RN105215651
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	6-Nov-2008	1-Jan-2010	1.15	\$19	\$384	\$404
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the amount to obtain a purchase water contract to meet the authorized daily production purchase rate of 0.6 gpm per connection for production capacity and the authorized hourly purchase rate of 2.0 gpm per connection for service pump capacity, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$404
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Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW
Respondent Lake Whitney Resorts, LLC	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36946	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN105215651		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		
Violation Number	3	
Rule Cite(s)	30 Tex. Admin. Code § 290.46(n)(2)	
Violation Description	Failed to provide an up-to-date map of the distribution system. Specifically, at the time of the investigation, it was documented that flush and gate valves were not labeled on the distribution map.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
				Percent <input type="text" value="1%"/>
Matrix Notes	Less than 30% of the rule requirement was not met.			
Adjustment				\$990
				\$10

Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="12"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$10"/>
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/>	
One single event is recommended.			

Good Faith Efforts to Comply		25.0% Reduction	\$2
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
Notes	The Respondent achieved compliance on November 18, 2008.		
Violation Subtotal			\$8

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$11"/>
This violation Final Assessed Penalty (adjusted for limits)			\$11

Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
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				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)	\$100	6-Nov-2008	18-Nov-2008	0.03	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to update the distribution map, 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

\$100

TOTAL

\$0

Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW			
Respondent Lake Whitney Resorts, LLC	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 36946	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN105215651					
Media [Statute] Public Water Supply					
Enf. Coordinator Epifanio Villarreal					
Violation Number	4				
Rule Cite(s)	30 Tex. Admin. Code § 290.110(c)(4)(A)				
Violation Description	Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days. Specifically, at the time of the investigation, a review of the chlorine residual logs from April to October 2008 revealed that the disinfectant residual was being monitored only once per month.				
Base Penalty		\$1,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input style="width: 50px;" type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input style="width: 50px;" type="text" value="0%"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Matrix Notes	Failure to monitor the disinfectant residual at least once every seven days could result in customers of the water supply being exposed to significant amounts of pollutants or contamination which would exceed levels protective of human health.				
Adjustment		<input style="width: 100px;" type="text" value="\$750"/>			
					<input style="width: 50px;" type="text" value="\$250"/>
Violation Events					
Number of Violation Events		<input style="width: 50px;" type="text" value="7"/>	Number of violation days		
		<input style="width: 50px;" type="text" value="213"/>			
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty <input style="width: 100px;" type="text" value="\$1,750"/>		
	weekly	<input type="checkbox"/>			
	monthly	<input checked="" type="checkbox"/>			
	quarterly	<input type="checkbox"/>			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
Seven monthly events are recommended based on the time period (April to October 2008) that the violation was documented.					
Good Faith Efforts to Comply		<input style="width: 50px;" type="text" value="0.0%"/>	Reduction		<input style="width: 50px;" type="text" value="\$0"/>
	Extraordinary	<input type="checkbox"/>	Violation Subtotal <input style="width: 100px;" type="text" value="\$1,750"/>		
	Ordinary	<input type="checkbox"/>			
	N/A	<input checked="" type="checkbox"/>			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input style="width: 50px;" type="text" value="\$319"/>	Violation Final Penalty Total		<input style="width: 50px;" type="text" value="\$2,370"/>
This violation Final Assessed Penalty (adjusted for limits)					<input style="width: 50px;" type="text" value="\$2,370"/>

Economic Benefit Worksheet

Respondent: Lake Whitney Resorts, LLC
Case ID No.: 36946
Reg. Ent. Reference No.: RN105215651
Media: Public Water Supply
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				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

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	\$520	1-Apr-2008	31-Oct-2008	0.58	\$15	\$303	\$319
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

The avoided costs include the amount to perform weekly monitoring of the disinfectant residual in the system (\$10 per week), calculated from the date the violation was documented.

Approx. Cost of Compliance

\$520

TOTAL

\$319

Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW
Respondent Lake Whitney Resorts, LLC		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36946		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN105215651		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		
Violation Number 5		
Rule Cite(s)	30 Tex. Admin. Code § 290.46(f)(2) and 290.46(f)(3)(A)(iv)	
Violation Description	Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, it was noted that flushing records from April to October 2008 were not available.	
	Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	
					Percent <input type="text" value="1%"/>

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

		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	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Notes The Respondent does not meet the good faith criteria for this violation.

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 Lake Whitney Resorts, LLC

Case ID No. 36946

Reg. Ent. Reference No. RN105215651

Media Public Water Supply

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	6-Nov-2008	1-Aug-2009	0.73	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to maintain, provide, and make accessible all Facility operating records during investigations, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW			
Respondent Lake Whitney Resorts, LLC	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 36946	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN105215651					
Media [Statute] Public Water Supply					
Enf. Coordinator Epifanio Villarreal					
Violation Number <input type="text" value="6"/>					
Rule Cite(s)	30 Tex. Admin. Code § 290.46(h)				
Violation Description	Failed to maintain a supply of calcium hypochlorite disinfectant on hand for use when making repairs, setting meters, and disinfecting new mains prior to placing them in service.				
Base Penalty		<input type="text" value="\$1,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		
		Percent	<input type="text" value="25%"/>		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent	<input type="text" value="0%"/>
Matrix Notes	Failure to maintain a supply of calcium hypochlorite after making repairs, setting meters, or disinfecting new mains could result in customers of the water supply being exposed to significant amounts of contaminants that would exceed levels that are protective of human health.				
				Adjustment	<input type="text" value="\$750"/>
					<input type="text" value="\$250"/>
Violation Events					
Number of Violation Events		<input type="text" value="2"/>		Number of violation days	
		<input type="text" value="41"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text" value="x"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
				Violation Base Penalty	<input type="text" value="\$500"/>
Two monthly events are recommended from the date of the investigation, November 6, 2008, to the date of screening, December 17, 2008.					
Good Faith Efforts to Comply			0.0% Reduction	<input type="text" value="\$0"/>	
			Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>		<input type="text"/>		
Ordinary	<input type="text"/>		<input type="text"/>		
N/A	<input type="text" value="x"/>		<input type="text" value="(mark with x)"/>		
Notes	The Respondent does not meet the good faith criteria for this violation.				
				Violation Subtotal	<input type="text" value="\$500"/>
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$5"/>		Violation Final Penalty Total	
				<input type="text" value="\$677"/>	
				This violation Final Assessed Penalty (adjusted for limits)	
				<input type="text" value="\$677"/>	

Economic Benefit Worksheet

Respondent: Lake Whitney Resorts, LLC
Case ID No.: 36946
Reg. Ent. Reference No.: RN105215651
Media: Public Water Supply
Violation No.: 6

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)	\$100	6-Nov-2008	10-Jul-2009	0.67	\$0	\$4	\$5
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to purchase and keep on hand a supply of calcium hypochlorite disinfectant, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5

Screening Date 17-Dec-2008		Docket No. 2008-1942-MLM-E		PCW
Respondent Lake Whitney Resorts, LLC		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36946		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN105215651				
Media [Statute] Public Water Supply				
Enf. Coordinator Epifanio Villarreal				
Violation Number	7			
Rule Cite(s)	30 Tex. Admin. Code § 290.121(a) and 290.121(b)(1)			
Violation Description	Failed to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements. Specifically, at the time of the investigation, it was noted that the water system did not have a bacteriological sample site plan.			
Base Penalty				\$1,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.			
Adjustment				\$900
				\$100
Violation Events				
	<input type="text" value="1"/>	<input type="text" value="12"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
One single event is recommended.				Violation Base Penalty <input type="text" value="\$100"/>
Good Faith Efforts to Comply				
		<input type="text" value="25.0%"/>	Reduction	
		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	The Respondent achieved compliance on November 18, 2008.			
Violation Subtotal				\$75
Economic Benefit (EB) for this violation				
		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$0"/>		Violation Final Penalty Total	<input type="text" value="\$109"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$109"/>

Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 7

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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	6-Nov-2008	18-Nov-2008	0.03	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to prepare and maintain a chemical and microbiological monitoring plan, 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

\$100

TOTAL

\$0

Screening Date 17-Dec-2008	Docket No. 2008-1942-MLM-E	PCW
Respondent Lake Whitney Resorts, LLC	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36946	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN105215651		
Media [Statute] Public Water Supply		
Enf. Coordinator Epifanio Villarreal		
Violation Number <input type="text" value="8"/>		
Rule Cite(s)	30 Tex. Admin. Code § 290.42(l)	
Violation Description	Failed to compile and maintain a plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was noted that the water system did not have a plant operations manual.	
Base Penalty		<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

	<input type="text" value="1"/>		<input type="text" value="14"/>	Number of violation days														
<i>mark only one with an x</i>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 40px;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">weekly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black; text-align: center;">X</td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	X			
daily	<input type="text"/>																	
weekly	<input type="text"/>																	
monthly	<input type="text"/>																	
quarterly	<input type="text"/>																	
semiannual	<input type="text"/>																	
annual	<input type="text"/>																	
single event	X																	
				Violation Base Penalty <input type="text" value="\$100"/>														

One single event is recommended.

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	X	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)	
Notes	The Respondent achieved compliance on November 20, 2008		

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 Lake Whitney Resorts, LLC
Case ID No. 36946
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 8

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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	6-Nov-2008	20-Nov-2008	0.04	\$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 includes the amount required to develop a plant operations manual, 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

\$200

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603182981 Lake Whitney Resorts, LLC Classification: AVERAGE Rating: 3.00
 Regulated Entity: RN105215651 LAKE WHITNEY RV & GOLF Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1090075
 Location: 255 SUNCOUNTRY DRIVE, WHITNEY, HILL COUNTY, TX
 TCEQ Region: REGION 09 - WACO
 Date Compliance History Prepared: December 17, 2008
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: December 17, 2003 to December 17, 2008
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Epi Villarreal Phone: 361-825-3425

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 |
| 6. | |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 07/03/2008 ADMINORDER 2007-2005-PWS-E
 Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(m)
 Description: Failed to provide written notification to the Commission of the startup of a new public water system.

 - Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)
 5A THSC Chapter 341, SubChapter A 341.035(c)
 Description: Failed to submit engineering reports prior to activating a new public water system.
 Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
 30 TAC Chapter 290, SubChapter D 290.46(r)
 Description: Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute ("gpm") per connection and a minimum pressure of 20 psi during emergencies such as fire fighting.
- B. Any criminal convictions of the state of Texas and the federal government.
 N/A
- C. Chronic excessive emissions events.
 N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 08/03/2007 | (568723) |
| 2 | 08/15/2007 | (645693) |
| 3 | 11/01/2007 | (646147) |
| 4 | 12/07/2007 | (598787) |
| 5 | 12/08/2008 | (706745) |

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

Date: 05/15/2007 (537109)

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.39(m)
Description: Failed to provide written notification to the Commission of the startup of a new public water system.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)
5A THSC Chapter 341, SubChapter A 341.035(c)
Description: Failed to submit engineering reports prior to activating a new public water system.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute ("gpm") per connection and a minimum pressure of 20 psi during emergencies such as fire fighting.

Date: 08/15/2007 (645693)

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

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
Description: PUBLIC NOTICE

Date: 12/10/2008 (704813)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi). All public water systems shall be operated to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions.

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
LAKE WHITNEY RESORTS, LLC
RN105215651

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1942-MLM-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 Lake Whitney Resorts, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 11. 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 255 Suncountry Drive in Whitney, Hill County, Texas (the "Facility") that has approximately 100 service connections and serves at least 25 people per day for at least 60 days per year.
2. The City's Facility adjoins, is contiguous with or surrounds state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(46).
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 December 15, 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 Thousand Ninety-Four Dollars (\$5,094) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Sixteen Dollars (\$116) of the administrative penalty and

One Thousand Eighteen Dollars (\$1,018) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Nine Hundred Sixty Dollars (\$3,960) of the administrative penalty shall be payable in 36 monthly payments of One Hundred Ten Dollars (\$110) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order 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 recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On November 18, 2008, provided the distribution map with the flush and gate valves;
 - b. On November 18, 2008, provided a copy of the Drought Contingency Plan;
 - c. On November 18, 2008, provided a copy of an up-to-date chemical and microbiological monitoring plan;
 - d. On November 20, 2008, provided a copy of the plant operations manual; and
 - e. On January 21, 2009, submitted a copy of the water operator's Class "D" license certificate that was issued on January 21, 2009.
10. 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.
11. 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.

12. 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 operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(3)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during an investigation conducted on November 6, 2008.
2. Failed to provide a purchase water contract in order to properly evaluate the Facility's production, storage, service pump or pressure maintenance capacity, in violation of 30 TEX. ADMIN. CODE § 290.45(f)(1), 290.45(f)(4), and 290.45(f)(5), as documented during an investigation conducted on November 6, 2008.
3. Failed to provide an up-to-date map of the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), as documented during an investigation conducted on November 6, 2008.
4. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A), as documented during an investigation conducted on November 6, 2008.
5. Failed to provide Facility records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(A)(iv), as documented during an investigation conducted on November 6, 2008.
6. Failed to maintain a supply of calcium hypochlorite disinfectant on hand for use when making repairs, setting meters, and disinfecting new mains prior to placing them in service, in violation of 30 TEX. ADMIN. CODE § 290.46(h), as documented during an investigation conducted on November 6, 2008.
7. Failed to make available for Commission review a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and 290.121(b)(1), as documented during an investigation conducted on November 6, 2008.
8. Failed to compile and maintain a plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l), as documented during an investigation conducted on November 6, 2008.
9. Failed to submit a Drought Contingency Plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B), as documented during an investigation conducted on November 6, 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: Lake Whitney Resorts, LLC, Docket No. 2008-1942-MLM-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 10 days after the effective date of this Agreed Order:
 - i. Begin monitoring and recording the disinfectant residual at representative locations in the distribution system at least once every seven days, in accordance with 30 TEX. ADMIN. CODE § 290.110; and
 - ii. Ensure there is a supply of calcium hypochlorite on hand for use when making repairs, setting meters and disinfecting new mains prior to placing them in service, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 30 days after the effective date of this Agreed Order, compile and begin maintaining properly completed monthly water works operation records and maintenance records, including but not limited to flushing records, and make them available at the time of Commission inspections, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - c. Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.e, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and 2.b.
 - d. Within 180 days after the effective date of this Agreed Order, provide a water purchase contract that authorizes a daily purchase rate to meet a production capacity of 0.6 gallons per minute ("gpm") per connection and maintain an hourly purchase rate to meet a service

pump capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.

- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.d. 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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. 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

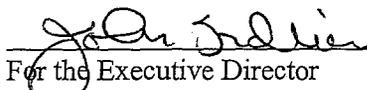
receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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



For the Executive Director

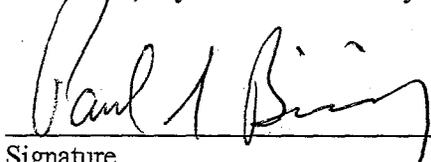
Date 4/17/2009

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.



Signature

Date 3/10/09

Paul S. Bissing

Name (Printed or typed)
Authorized Representative of
Lake Whitney Resorts, LLC

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.

