

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0083-PWS-E **TCEQ ID:** RN101230290 **CASE NO.:** 37039

RESPONDENT NAME: Texas Parks and Wildlife Department

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 type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: TPWD Lake Brownwood State Park, 200 State Park Road 15, Brown County</p> <p>TYPE OF OPERATION: State park with a public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 June 8, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney/SEP Coordinator: None</p> <p>TCEQ Enforcement Coordinator: 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</p> <p>Respondent: Mr. David Frank, Project Manager, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744</p> <p>Mr. Dan R. Sholly, Deputy Director-State Parks, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744</p> <p>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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" 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 19, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 19, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to provide adequate containment facilities for all liquid chemical storage tanks [30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii)].</p> <p>2) Failure to protect gas chlorination equipment and gas cylinders that are installed on the outside of a building from adverse weather conditions and vandalism [30 TEX. ADMIN. CODE § 290.42(e)(4)(B)].</p> <p>3) Failure to provide clarification basins that are equipped with mechanical sludge removal facilities with a side wall water depth of at least 12 feet [30 TEX. ADMIN. CODE § 290.42(d)(10)(C)(iv)].</p>	<p>Total Assessed: \$1,095</p> <p>Total Deferred: \$219 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$876</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input 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 as of January 29, 2009:</p> <p>a. Provided adequate secondary containment around the alum bulk tank; and</p> <p>b. Properly housed the gas chlorination equipment and gas cylinders in order to protect it from adverse weather and vandalism.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, equip the clarification basin with mechanical sludge removal facilities and provide a side wall water depth for the clarification basin of at least 12 feet, or obtain drinking water from an approved source and discontinue use of the clarification basin; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 0250003



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	5-Jan-2009	Screening	15-Jan-2009	EPA Due	
	PCW	15-Jan-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Parks and Wildlife Department
Reg. Ent. Ref. No.	RN101230290
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37039	No. of Violations	3
Docket No.	2009-0083-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,100
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$55
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Notes: The penalty enhancement is due to one prior NOV for violations that are the same as or similar to the violations in the current enforcement action.

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	\$60
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$626
 Approx. Cost of Compliance: \$11,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,095
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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: [Empty box]

Final Penalty Amount	\$1,095
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,095
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DEFERRAL	20.0% Reduction	Adjustment	-\$219
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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	\$876
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Screening Date 15-Jan-2009

Docket No. 2009-0083-PWS-E

PAW

Respondent Texas Parks and Wildlife Department

Policy Revision 2 (September 2002)

Case ID No. 37039

PCW Revision October 30, 2008

Reg. Net. Reference No. RN101230290

Media [Statute] Public Water Supply

End. Coordinator Yuliya Dunaway

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>	1	5%
	Other written Novs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments 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) 5%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

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

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

Screening Date 15-Jan-2009	Docket No. 2009-0083-PWS-E	PCW															
Respondent Texas Parks and Wildlife Department	<small>Policy Revision 2 (September 2002)</small>																
Case ID No. 37039	<small>PCW Revision October 30, 2008</small>																
Reg. Ent. Reference No. RN101230290																	
Media [Statute] Public Water Supply																	
Enf. Coordinator Yuliya Dunaway																	
Violation Number <input type="text" value="1"/>																	
Rule Cite(s)	30 Tex. Admin. Code § 290.42(f)(1)(E)(ii)																
Violation Description	Failed to provide adequate containment facilities for all liquid chemical storage tanks. Specifically, at the time of the record review, it was documented that the alum bulk tank did not have any type of secondary containment.																
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"/>	x	<input type="text"/>														
		Percent	<input type="text" value="10%"/>														
>> Programmatic Matrix																	
Falsification																	
Major Moderate Minor																	
<input type="text"/>																	
		Percent	<input type="text" value="0%"/>														
Matrix Notes	By failing to provide secondary containment for the alum bulk tank, a significant amount of contaminants that would not exceed levels protective of human health may come in contact with employees or the public in the event of spills or leaks from the chemical tanks.																
Adjustment		<input type="text" value="\$900"/>															
		<input type="text" value="\$100"/>															
Violation Events																	
Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="57"/>														
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse; width: 100%;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">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"/>	Violation Base Penalty	<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"/>																
One quarterly event is recommended from the date of the record review, November 19, 2008, to the date of screening, January 15, 2009.																	
Good Faith Efforts to Comply		10.0% Reduction	<input type="text" value="\$10"/>														
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>															
Extraordinary	<input type="text"/>	<input type="text"/>															
Ordinary	<input type="text"/>	x															
N/A	<input type="text"/>	<small>(mark with x)</small>															
Notes	The Respondent achieved compliance as of January 29, 2009.																
Violation Subtotal		<input type="text" value="\$90"/>															
Economic Benefit (EB) for this violation		Statutory Limit Test															
Estimated EB Amount	<input type="text" value="\$7"/>	Violation Final Penalty Total	<input type="text" value="\$95"/>														
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$95"/>														

Economic Benefit Worksheet

Respondent Texas Parks and Wildlife Department
Case ID No. 37039
Reg. Ent. Reference No. RN101230290
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$500	19-Nov-2008	29-Jan-2009	0.19	\$0	\$6	\$7
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 secondary containment for the alum bulk tank, calculated from the date of the record review 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 TOTAL

\$500		\$7
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Screening Date 15-Jan-2009	Docket No. 2009-0083-PWS-E	PCW														
Respondent Texas Parks and Wildlife Department	<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 37039	<small>PCW Revision October 30, 2008</small>															
Reg. Ent. Reference No. RN101230290																
Media [Statute] Public Water Supply																
Enf. Coordinator Yuliya Dunaway																
Violation Number <input type="text" value="2"/>																
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.42(e)(4)(B)"/>															
Violation Description	<input type="text" value="Failed to protect gas chlorination equipment and gas cylinders that are installed on the outside of a building from adverse weather conditions and vandalism."/>															
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"/>	Percent <input type="text" value="25%"/>														
Potential <input type="text" value="x"/> <input type="text"/> <input type="text"/>																
>> 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	<input type="text" value="Failure to protect the gas chlorination equipment from adverse weather conditions and vandalism could result in interruption of the disinfection process and expose the public and employees of the water system to a significant amount of contaminants which 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"/>	<input type="text" value="57"/> Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <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 checked="" type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></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 checked="" type="text"/>	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"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input checked="" type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
<input type="text" value="Two monthly events are recommended from the date of the record review, November 19, 2008, to the screening date, January 15, 2009."/>																
Good Faith Efforts to Comply		<input type="text" value="\$50"/>														
	10.0% Reduction															
	Before NOV NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input checked="" type="text"/>														
N/A	<input type="text"/>	<small>(mark with x)</small>														
Notes	<input type="text" value="The Respondent achieved compliance as of January 29, 2009."/>															
Violation Subtotal		<input type="text" value="\$450"/>														
Economic Benefit (EB) for this violation		Statutory Limit Test														
Estimated EB Amount	<input type="text" value="\$14"/>	Violation Final Penalty Total <input type="text" value="\$475"/>														
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$475"/>														

Economic Benefit Worksheet

Respondent Texas Parks and Wildlife Department
Case ID No. 37039
Reg. Ent. Reference No. RN101230290
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
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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	\$1,000	19-Nov-2008	29-Jan-2009	0.19	\$1	\$13	\$14
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 protection for the gas chlorination equipment and gas cylinders from adverse weather conditions and vandalism, calculated from the date of the record review 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	\$1,000	TOTAL	\$14
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Screening Date 15-Jan-2009	Docket No. 2009-0083-PWS-E	PCW		
Respondent Texas Parks and Wildlife Department	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37039	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101230290				
Media [Statute] Public Water Supply				
Enf. Coordinator Yuliya Dunaway				
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 290.42(d)(10)(C)(iv)			
Violation Description	Failed to provide clarification basins that are equipped with mechanical sludge removal facilities, with a side wall water depth of at least 12 feet. Specifically, at the time of the record review, it was documented that the Facility's clarification basin, which was not equipped with mechanical sludge removal facilities, had a side wall water depth of 3.5 feet.			
	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	Failure to have a side wall water depth of at least 12 feet in the clarification basin could result in improper treatment process and expose customers of the water supply to a significant amount of contaminants which would exceed levels that are protective of human health.			
	Adjustment	\$750		
		\$250		
Violation Events				
	Number of Violation Events	2	57	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 record review, November 19, 2008, to the date of screening, January 15, 2009.			
Good Faith Efforts to Comply				
	0.0% Reduction	\$0		
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>			
Ordinary	<input type="checkbox"/>			
N/A	<input checked="" type="checkbox"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	\$500		
Economic Benefit (EB) for this violation				
	Estimated EB Amount	\$606		
Statutory Limit Test				
	Violation Final Penalty Total	\$525		
	This violation Final Assessed Penalty (adjusted for limits)	\$525		

Economic Benefit Worksheet

Respondent Texas Parks and Wildlife Department
Case ID No. 37039
Reg. Ent. Reference No. RN101230290
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
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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	\$10,000	19-Nov-2008	1-Oct-2009	0.87	\$29	\$577	\$606
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 a clarification basin with a mechanical sludge removal system or a side wall water depth of at least 12 feet, calculated from the date of the record review 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	\$10,000	TOTAL	\$606
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600134852	Texas Parks and Wildlife Department	Classification: AVERAGE	Rating: 2.32
Regulated Entity:	RN101230290	TPWD LAKE BROWNWOOD STATE PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0250003	
	WATER LICENSING	LICENSE	0250003	
Location:	200 STATE PARK ROAD 15, BROWN COUNTY, TX			
TCEQ Region:	REGION 03 - ABILENE			
Date Compliance History Prepared:	January 15, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 15, 2004 to January 15, 2009			

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 |
| 6. | |

Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	03/03/2004	(264781)
2	03/16/2004	(265980)
3	12/20/2004	(344822)
4	04/11/2006	(457743)
5	08/31/2007	(572070)
6	12/19/2008	(708690)

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

Date: 09/04/2007 (572070)

CN600134852

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)

Description: Failure to have secondary containment around the alum bulk tank.

Self Report? NO Classification: Moderate

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

Description: Failure to have the gas chlorination equipment and gas cylinders protected from adverse weather.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(10)(C)(iv)

Description: Failure to have a side wall water depth of at least 12 feet provided in the

clarification basins that are not equipped with mechanical sludge removal facilities.

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
TEXAS PARKS AND WILDLIFE
DEPARTMENT
RN101230290

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0083-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 Texas Parks and Wildlife Department ("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 state park with a public water supply at 200 State Park Road 15, Brown County, Texas (the "Facility") that has approximately 105 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 December 24, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Ninety-Five Dollars (\$1,095) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Hundred Seventy-Six Dollars (\$876) of the administrative penalty and Two Hundred Nineteen Dollars (\$219) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be

- waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility as of January 29, 2009:
 - a. Provided adequate secondary containment around the alum bulk tank; and
 - b. Properly housed the gas chlorination equipment and gas cylinders in order to protect it from adverse weather and vandalism.
 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 adequate containment facilities for all liquid chemical storage tanks, in violation of 30 TEX. ADMIN. CODE § 290.42(f)(1)(E)(ii), as documented during a record review conducted on November 19, 2008.
2. Failed to protect gas chlorination equipment and gas cylinders that are installed on the outside of a building from adverse weather conditions and vandalism, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(B), as documented during a record review conducted on November 19, 2008.
3. Failed to provide clarification basins that are equipped with mechanical sludge removal facilities with a side wall water depth of at least 12 feet, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(10)(C)(iv), as documented during a record review conducted on November 19, 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: Texas Parks and Wildlife Department, Docket No. 2009-0083-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, equip the clarification basin with mechanical sludge removal facilities and provide a side wall water depth for the clarification basin of at least 12 feet, as required by 30 TEX. ADMIN. CODE § 290.42; or obtain drinking water from an approved source and discontinue use of the clarification basin.
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

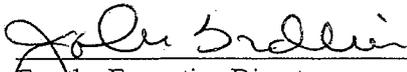
Water Section, Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

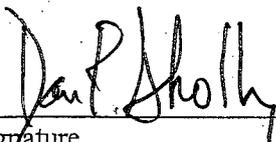
5/11/2009
Date

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.



Signature

4/8/09
Date

DAN R SHOLLY

Name (Printed or typed)
Authorized Representative of
Texas Parks and Wildlife Department

Deputy Director - State Parks

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.

