

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0334-PWS-E **TCEQ ID:** RN101440568 **CASE NO.:** 37188

RESPONDENT NAME: Combined Consumers Special Utility District

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input type="checkbox"/> 1660 AGREED ORDER | <input checked="" 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: Combined Consumers SUD, 10446 Farm-to-Market Road 751, Quinlan, Hunt 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 June 15, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Wayne Johnson, President, Combined Consumers Special Utility District, P.O. Box 2829, Quinlan, Texas 75474 Mr. Heath McGee, General Manager, Combined Consumers Special Utility District, P.O. Box 2829, Quinlan, Texas 75474 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: January 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: January 23, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5") based on a running annual average. Specifically, the running annual average concentrations for HAA5 were 0.063 mg/L for the first quarter of 2008, 0.063 mg/L for the second quarter of 2008, and 0.063 mg/L for the fourth quarter of 2008 [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> | <p>Total Assessed: \$720</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$720</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 type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five-year period for the same violation.</p> | <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for HAA5; and</p> <p>b. Within 380 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): 1160052



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|------------|
| DATES | Assigned | 9-Feb-2009 | Screening | 17-Feb-2009 | EPA Due | 1-Jan-2009 |
| | PCW | 23-Feb-2009 | | | | |

| | | | |
|--|---|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Combined Consumers Special Utility District | | |
| Reg. Ent. Ref. No. | RN101440568 | | |
| Facility/Site Region | Dallas/Fort Worth | Major/Minor Source | Major |

| | | | |
|---------------------------------|---------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37188 | No. of Violations | 1 |
| Docket No. | 2009-0334-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Amanda Henry |
| | | 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> | \$500 |
|---|-------------------|-------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|------|
| Compliance History | 19.0% Enhancement | <i>Subtotals 2, 3, & 7</i> | \$95 |
|---------------------------|-------------------|--------------------------------|------|

Notes: Enhancement is due to three prior Notices of Violation ("NOVs") for violations that are the same as the violations in the current enforcement action and two prior dissimilar NOV.

| | | | | |
|--------------------|-----|-------------------|-------------------|-------|
| Culpability | Yes | 25.0% Enhancement | <i>Subtotal 4</i> | \$125 |
|--------------------|-----|-------------------|-------------------|-------|

Notes: The Respondent was issued alert letters for haloacetic acids ("HAA5") exceedances on July 6, 2005, September 26, 2007 and December 11, 2007.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | <i>Subtotal 5</i> | \$0 |
|--|-------------------|-----|

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

Total EB Amounts: \$963
 Approx. Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | <i>Final Subtotal</i> | \$720 |
|-----------------------------|-----------------------|-------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|-------|
| Final Penalty Amount | \$720 |
|-----------------------------|-------|

| | | |
|-----------------------------------|-------------------------------|-------|
| STATUTORY LIMIT ADJUSTMENT | <i>Final Assessed Penalty</i> | \$720 |
|-----------------------------------|-------------------------------|-------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | <i>Adjustment</i> | \$0 |
|-----------------|----------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

| | |
|------------------------|-------|
| PAYABLE PENALTY | \$720 |
|------------------------|-------|

Screening Date 17-Feb-2009

Docket No. 2009-0334-PWS-E

PCW

Respondent Combined Consumers Special Utility District

Policy Revision 2 (September 2002)

Case ID No. 37188

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101440568

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 3 | 15% |
| | Other written NOVs | 2 | 4% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| <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) 19%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement is due to three prior Notices of Violation ("NOVs") for violations that are the same as the violations in the current enforcement action and two prior dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 19%

| | | | | |
|---|--|--|-------------------------------------|--------------------------|
| Screening Date 17-Feb-2009 | Docket No. 2009-0334-PWS-E | PCW | | |
| Respondent Combined Consumers Special Utility District | | <small>Policy Revision 2 (September 2002)</small> | | |
| Case ID No. 37188 | | <small>PCW Revision October 30, 2008</small> | | |
| Reg. Ent. Reference No. RN101440568 | | | | |
| Media [Statute] Public Water Supply | | | | |
| Enf. Coordinator Amanda Henry | | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c) | | | |
| Violation Description | Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter mg/L for HAA5 based on a running annual average. Specifically, the running annual average concentrations for HAA5 were 0.063 mg/L for the first quarter of 2008, 0.063 mg/L for the second quarter of 2008, and 0.063 mg/L for the fourth quarter of 2008. | | | |
| | Base Penalty | \$1,000 | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="checkbox"/> | x | <input type="checkbox"/> |
| | Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Percent | 50% | |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Percent | 0% | |
| Matrix Notes | Exceeding the MCL for HAA5 exposes customers of the water supply to significant amounts of contaminants that do not exceed levels protective of human health. | | | |
| | Adjustment | \$500 | | |
| | | | \$500 | |
| Violation Events | | | | |
| | Number of Violation Events | 1 | Number of violation days | |
| | | 270 | | |
| <small>mark only one with an x</small> | daily | <input type="checkbox"/> | Violation Base Penalty \$500 | |
| | weekly | <input type="checkbox"/> | | |
| | monthly | <input type="checkbox"/> | | |
| | quarterly | <input type="checkbox"/> | | |
| | semiannual | <input type="checkbox"/> | | |
| | annual | x | | |
| | single event | <input type="checkbox"/> | | |
| | One annual event is recommended. | | | |
| Good Faith Efforts to Comply | | | | |
| | 0.0% Reduction | \$0 | | |
| | Before NOV | NOV to EDPRP/Settlement Offer | | |
| Extraordinary | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Ordinary | <input type="checkbox"/> | <input type="checkbox"/> | | |
| N/A | x | (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 | \$963 | Violation Final Penalty Total | \$720 | |
| | | This violation Final Assessed Penalty (adjusted for limits) | \$720 | |

Economic Benefit Worksheet

Respondent: Combined Consumers Special Utility District
Case ID No.: 37188
Reg. Ent. Reference No.: RN101440568
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) | \$5,000 | 1-Jan-2008 | 1-Oct-2010 | 2.75 | \$46 | \$917 | \$963 |
| 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 implement an alternate disinfection method to reduce or eliminate the HAA5 levels, calculated from the first day of non compliance 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

\$963

Compliance History Report

Customer/Respondent/Owner-Operator: CN602690422 Combined Consumers Special Utility District Classification: Rating:
Regulated Entity: RN101440568 COMBINED CONSUMERS SUD Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1160052
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1160052
WATER LICENSING LICENSE 1160052

Location: 10446 FM 751, QUINLAN, HUNT COUNTY, TX

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: February 17, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 19, 2004 to February 19, 2009

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

Name: Amanda Henry Phone: 713-767-3672

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? Yes
3. If Yes, who is the current owner? Combined Consumers Special Utility District
4. If Yes, who was/were the prior owner(s)? Combined Consumers Water Supply Corporation
5. When did the change(s) in ownership occur? March 25, 2004

Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1 04/19/2004 (268306)
2 05/05/2005 (374167)
3 07/25/2006 (485590)
4 07/05/2007 (563104)
5 07/25/2008 (724170)
6 08/28/2008 (724419)
7 01/16/2009 (724422)
8 02/05/2009 (724616)

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

Date: 07/25/2006 (485590)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)

Description: Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection in the Crestview Pressure Plane.

Date: 07/13/2007 (563104)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)

Description: Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection in the Crestview Pressure Plane.

Date: 07/25/2008 (724170)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.

Date: 08/28/2008 (724419)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the second quarter of 2008.

Date: 01/16/2009 (724422)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: Violated the maximum contaminant level for haloacetic acids during the fourth quarter of 2008.

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
COMBINED CONSUMERS SPECIAL
UTILITY DISTRICT
RN101440568

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0334-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Combined Consumers Special Utility District ("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, presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 10446 Farm-to-Market Road 751 in Quinlan, Hunt County, Texas (the "Facility") that has approximately 2,797 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on January 21, 2009, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on a running annual average. Specifically the running annual average concentrations for HAA5 were 0.063 mg/L for the first quarter of 2008, 0.063 mg/L for the second quarter of 2008, and 0.063 mg/L for the fourth quarter of 2008.
3. The Respondent received notice of the violations on January 28, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5 based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Hundred Twenty Dollars (\$720) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Seven Hundred Twenty Dollar (\$720) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Seven Hundred Twenty Dollars (\$720) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Combined Consumers Special Utility District, Docket No. 2009-0334-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
- a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

DBP Coordinator
Water Supply Division, MC-155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. ...
For the Executive Director

6/3/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Combined Consumers Special Utility District. I am authorized to agree to the attached Agreed Order on behalf of Combined Consumers Special Utility District, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Combined Consumers Special Utility District waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Heath McGee
Signature

4/11/09
Date

Heath McGee
Name (Printed or typed)
Authorized Representative of
Combined Consumers Special Utility District

General Manager
Title

