

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0329-PWS-E **TCEQ ID:** RN102685351 **CASE NO.:** 35440

**RESPONDENT NAME:** Shore-Tech, Inc. dba L & M Water Development Co.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lone Pine Subdivision, 3620 Avenue D, Santa Fe, Galveston County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 27, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Michael Bratsen, Vice President, Shore-Tech, Inc., P.O. Box 395, Santa Fe, Texas 77510  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 5, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 7, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90840229 for Fiscal Year 2008 [30 TEX. ADMIN. CODE § 290.51(a)(3)].</p>	<p><b>Total Assessed:</b> \$352</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$352</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest, for Financial Administration Account No. 90840229;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM; and</p> <p>d. 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 c.</p>

Additional ID No(s): PWS ID 0840229



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

<b>DATES</b>	Assigned	19-Feb-2008	Screening	22-Feb-2008	EPA Due	1-Mar-2008
	PCW	25-Feb-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Shore-Tech, inc. dba L & M Water Development Co.		
Reg. Ent. Ref. No.	RN102685351		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35440	No. of Violations	2
Docket No.	2008-0329-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Stephen Thompson
Multi-Media		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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement Subtotals 2, 3, & 7

Notes: The penalty enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same or similar to the violations contained in the current enforcement action and three dissimilar NOVs.

**Culpability**   Enhancement Subtotal 4

Notes: The Respondent was issued alert letters for total trihalomethane ("TTHM") exceedances on August 2, 2004 and November 7, 2006.

**Good Faith Effort to Comply**  Reduction Subtotal 5

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

Notes: The Respondent does not meet the good faith criteria.

**Total EB Amounts**  Subtotal 6   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes:

**PAYABLE PENALTY**

**Screening Date** 22-Feb-2008

**Docket No.** 2008-0329-PWS-E

**PCW**

**Respondent** Shore-Tech, Inc. dba L & M Water Development Co.

Policy Revision 2 (September 2002)

**Case ID No.** 35440

PCW Revision January 29, 2008

**Reg. Ent. Reference No.** RN102685351

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Stephen Thompson

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	3	6%
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 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)** 16%

>> **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**

The penalty enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same or similar to the violations contained in the current enforcement action and three dissimilar NOVs.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 16%

<b>Screening Date</b> 22-Feb-2008	<b>Docket No.</b> 2008-0329-PWS-E	<b>PCW</b>
<b>Respondent</b> Shore-Tech, Inc. dba L & M Water Development Co.	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35440	<small>PCW Revision January 29, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN102685351		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Stephen Thompson		
<b>Violation Number</b>	<input type="text" value="1"/>	
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health &amp; Safety Code § 341.0315(c)"/>	
<b>Violation Description</b>	<input ("mg="" 0.080="" 0.086="" 0.091="" 2007="" 2007."="" a="" and="" annual="" average="" average.="" based="" concentrations="" for="" l="" l")="" liter="" mcl")="" mg="" milligrams="" of="" on="" per="" quarter="" running="" second="" specifically,="" the="" third="" tthm="" type="text" value="Failed to comply with the maximum contaminant level (" were=""/>	
<b>Base Penalty</b>		<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	<b>Falsification</b>				
		<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>	
<b>Matrix Notes</b>	<input type="text" value="Exceeding the MCL for TTHM exposes customers of the water system to significant amounts of contaminants that do not exceed levels that are protective of human health."/>				

**Adjustment**

Violation Events

Number of Violation Events        Number of violation days

<small>mark only one with an x</small>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="text" value="x"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One annual event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$848"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$352"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$352"/>	

## Economic Benefit Worksheet

**Respondent** Shore-Tech, Inc. dba L & M Water Development Co.  
**Case ID No.** 35440  
**Reg. Ent. Reference No.** RN102685351  
**Media** Public Water Supply  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$5,000	1-Apr-2007	1-Sep-2009	2.4	\$40	\$807	\$848
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**      The delayed costs include the amount necessary to implement an alternate method of disinfection, 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$848
-----------------------------------	---------	--------------	-------

<b>Screening Date</b> 22-Feb-2008	<b>Docket No.</b> 2008-0329-PWS-E	<b>PCW</b>
<b>Respondent</b> Shore-Tech, Inc. dba L & M Water Development Co.	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35440	<small>PCW Revision January 29, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN102685351		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Stephen Thompson		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.51(a)(3)	
<b>Violation Description</b>	Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90840229 for Fiscal Year 2008.	
<b>Base Penalty</b>		<input type="text" value="\$1,000"/>

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

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

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<b>Percent</b> <input type="text" value="0%"/>				
<b>Matrix Notes</b>	<input type="text"/>				
<b>Adjustment</b>					<input type="text" value="\$1,000"/>

**Violation Events**

<b>Number of Violation Events</b> <input type="text"/>	<input type="text"/>	<b>Number of violation days</b>												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</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><input type="text"/></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"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$0"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

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

## Economic Benefit Worksheet

**Respondent** Shore-Tech, Inc. dba L & M Water Development Co.  
**Case ID No.** 35440  
**Reg. Ent. Reference No.** RN102685351  
**Media** Public Water Supply  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

Item Description No commas or \$

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

# Compliance History

Customer/Respondent/Owner-Operator:	Shore-Tech, Inc. dba L & M Water Development Co.	Classification:	Rating:
Regulated Entity:	RN102685351 LONE PINE SUBDIVISION	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0840229 0840229
Location:	3620 AVENUE D, SANTA FE, GALVESTON COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 22, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 22, 2003 to February 22, 2008		

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

Name: Stephen Thompson Phone: (512) 239-2558

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Shore-Tech, Inc.  
L & M Water Development Co.
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	03/10/2003	(26964)
2	10/15/2003	(403324)
3	10/19/2004	(335398)
4	08/31/2006	(510622)
5	08/03/2007	(617112)
6	11/15/2007	(617663)
7	02/12/2008	(617973)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	10/15/2003	(403324)	Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)					
Description:	FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 08/2003.					
Self Report?	NO		Classification:	Moderate		
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)					
Description:	FAILURE TO POST A PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 08/2003.					
Date:	10/19/2004	(335398)	Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)					
Description:	Failure to maintain by not keeping the chlorine drum clean.					
Self Report?	NO		Classification:	Moderate		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)					

Description: Failure to fix the leaking valve on the discharge line of the PT.  
Date: 08/31/2006 (510622)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain by not keeping the chlorine drum clean.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
Description: Failure to fix the leaking valve on the discharge line of the PT.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
Description: Disinfectant Residual and Monitoring  
Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)  
Description: Disinfectant Residual Reporting Requirements  
Failure by a community or non-transient non-community public water system that uses purchased water or groundwater sources only to submit a Disinfectant Level Quarterly Operating Report (DLQOR) each quarter by the 10th day of the month following the quarter.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
Description: Design and Construction of Pressure Tanks and Storage Tanks  
Failure to inspect the pressure and ground storage tanks annually.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Monitoring Plans  
Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

Date: 08/03/2007 (617112)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2007.

Date: 11/15/2007 (617663)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.

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  
SHORE-TECH, INC. DBA L & M  
WATER DEVELOPMENT CO.  
RN102685351

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY  
§

**AGREED ORDER**  
**DOCKET NO. 2008-0329-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 Shore-Tech, Inc. dba L & M Water Development Co. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 3620 Avenue D in Santa Fe, Galveston County, Texas (the "Facility") that has approximately 31 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 February 12, 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 Three Hundred Fifty-Two Dollars (\$352) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Fifty-Two Dollars (\$352) of the administrative penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on February 5, 2008.
2. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90840229 for Fiscal Year 2008, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3), as documented during a record review conducted on February 5, 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: Shore-Tech, Inc. dba L & M Water Development Co., Docket No. 2008-0329-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 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest for Financial Administration Account No. 90840229 with the notation "Shore-Tech, Inc. dba L & M Water Development Co. Account No. 90840229" to the address listed in Ordering Provision No. 1 of this section.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification, as detailed in Ordering Provision 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.
  - c. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113.
  - d. 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 2.c. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

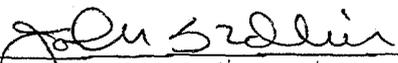
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension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

Shore-Tech, Inc. dba L & M Water Development Co.  
DOCKET NO. 2008-0329-PWS-E  
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

7/2/2009  
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

5-29-09  
Date

MICHAEL BRATNEY  
Name (Printed or typed)  
Authorized Representative of  
Shore-Tech, Inc. dba L & M Water Development Co.

VICE-PRESIDENT  
Title

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

1911

1911

1911

1911

1911

1911

1911

1911

1911

1911

1911

1911

1911