

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0261-PWS-E TCEQ ID: RN101441533 CASE NO.: 37146**

**RESPONDENT NAME: D & M Water Supply Corporation**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> D &amp; M WSC, located on Farm-to-Market Road 225 approximately one mile south of Douglass, Nacogdoches 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> A complaint was received on September 30, 2008, stating that water pressure at the complainant's house continued to drop. At the time of the complaint, the complainant was without water. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</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> 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  <b>Respondent:</b> Ms. Gloria Montes, President, Board of Directors, D &amp; M Water Supply Corporation, P.O. Box 9, Douglass, Texas 75943  <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 checked="" 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> September 30, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> September 30, 2008 and February 9, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 20, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation and a record review.</p> <p><b>WATER</b></p> <p>1) Failure to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1)].</p> <p>2) Failure to pay all annual and late Public Health Service fees for TCEQ Financial Administration ("FA") Account No. 91740010 for fiscal year 2009 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$620</p> <p><b>Total Deferred:</b> \$124  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$496</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 checked="" type="checkbox"/> Yes <input 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:</p> <p>i. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 91740010; and</p> <p>ii. Develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to the customers of the Facility in the event of distribution pressures below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that potability of the water may be compromised.</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 other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 1740010



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	26-Jan-2009	<b>Screening</b>	9-Feb-2009	<b>EPA Due</b>	
	<b>PCW</b>	20-Feb-2009				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	D & M Water Supply Corporation	
<b>Reg. Ent. Ref. No.</b>	RN101441533	
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	37146	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-0261-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	24.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$120
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<b>Notes</b>	Enhancement is due to two dissimilar Notices of Violation and one prior agreed order containing a denial of liability.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$511	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$700	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$620
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$620
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$620
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$124
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$496
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Screening Date 9-Feb-2009

Docket No. 2009-0261-PWS-E

PCW

Respondent D &amp; M Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 37146

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101441533

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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) 24%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement is due to two dissimilar Notices of Violation and one prior agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 24%

<b>Screening Date</b> 9-Feb-2009	<b>Docket No.</b> 2009-0261-PWS-E	<b>PCW</b>																			
<b>Respondent</b> D & M Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>																				
<b>Case ID No.</b> 37146	<small>PCW Revision October 30, 2008</small>																				
<b>Reg. Ent. Reference No.</b> RN101441533																					
<b>Media [Statute]</b> Public Water Supply																					
<b>Enf. Coordinator</b> Amanda Henry																					
<b>Violation Number</b> <input type="text" value="1"/>																					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.46(q)(1)																				
<b>Violation Description</b>	Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, at the time of the record review, it was documented that the Respondent did not issue a boil water notice within 24 hours after the pressure in the distribution line dropped below 20 pounds per square inch ("psi") due to a water leak in the distribution line.																				
<b>Base Penalty</b>	<input type="text" value="\$1,000"/>																				
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td>Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> <input type="text" value="50%"/></td> </tr> <tr> <td>Potential</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="50%"/>	Potential	x	<input type="text"/>	<input type="text"/>	
	Harm																				
Release	Major	Moderate	Minor																		
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="50%"/>																	
Potential	x	<input type="text"/>	<input type="text"/>																		
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: right;"><b>Percent</b> <input type="text" value="0%"/></td> </tr> </table>		Falsification	Major	Moderate	Minor			<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>								
	Falsification	Major	Moderate	Minor																	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>																
<b>Matrix Notes</b>	Failure to issue a boil water notice may not allow the public to take appropriate measures in response to the low pressure which could result in the delivery of contaminated water that could exceed levels that are protective of human health.																				
<b>Adjustment</b>	<input type="text" value="\$500"/>																				
<input type="text" value="\$500"/>																					
<b>Violation Events</b>																					
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>																			
	<input type="text" value="1"/>																				
mark only one with an x	<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 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 style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>					
daily	<input type="text"/>																				
weekly	<input type="text"/>																				
monthly	<input type="text"/>																				
quarterly	<input type="text"/>																				
semiannual	<input type="text"/>																				
annual	<input type="text"/>																				
single event	x																				
One single event is recommended.																					
<b>Good Faith Efforts to Comply</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">0.0% Reduction</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		0.0% Reduction			Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)	<input type="text" value="\$0"/>				
	0.0% Reduction																				
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary	<input type="text"/>	<input type="text"/>																			
Ordinary	<input type="text"/>	<input type="text"/>																			
N/A	x	(mark with x)																			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																				
<b>Violation Subtotal</b>	<input type="text" value="\$500"/>																				
<b>Economic Benefit (EB) for this violation</b>																					
<b>Estimated EB Amount</b>	<input type="text" value="\$511"/>	<b>Statutory Limit Test</b>																			
		<b>Violation Final Penalty Total</b> <input type="text" value="\$620"/>																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$620"/>																					

### Economic Benefit Worksheet

**Respondent** D & M Water Supply Corporation  
**Case ID No.** 37146  
**Reg. Ent. Reference No.** RN101441533  
**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
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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)	\$200	30-Sep-2008	1-Nov-2009	1.09	\$11	n/a	\$11

**Notes for DELAYED costs**

The delayed cost includes the amount to train employees and develop a written protocol to follow to ensure proper public notification and boil water notices are issued when required. Date required is the record review date. Final date is 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]	\$500	30-Sep-2008	1-Oct-2008	0.00	\$0	\$500	\$500
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the amount necessary to provide a boil water notice, calculated for the 24 hour occurrence.

**Approx. Cost of Compliance**

\$700

**TOTAL**

\$511

<b>Screening Date</b> 9-Feb-2009	<b>Docket No.</b> 2009-0261-PWS-E	<b>PCW</b>		
<b>Respondent</b> D & M Water Supply Corporation		<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 37146		<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101441533				
<b>Media [Statute]</b> Public Water Supply				
<b>Enf. Coordinator</b> Amanda Henry				
<b>Violation Number</b> <input type="text" value="2"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702"/>			
<b>Violation Description</b>	<input 2009."="" 91740010="" account="" administration="" fees="" financial="" fiscal="" for="" no.="" phs\")="" tceq="" type="text" value="Failed to pay all annual and late Public Health Services (\" year=""/>			
	<b>Base Penalty</b>	<input type="text" value="\$1,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	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%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="All penalties and interest will be determined by the Financial Administration Division at the next billing cycle."/>			
	<b>Adjustment</b>	<input type="text" value="\$1,000"/>		
		<input type="text" value="\$0"/>		
<b>Violation Events</b>				
	Number of Violation Events	<input type="text"/>	Number of violation days	<input type="text"/>
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			<b>Violation Base Penalty</b>	<input type="text" value="\$0"/>
<input type="text" value=""/>				
<b>Good Faith Efforts to Comply</b>				
	<input type="text" value="0.0%"/>	Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)		
Notes	<input type="text" value=""/>			
		<b>Violation Subtotal</b>	<input type="text" value="\$0"/>	
<b>Economic Benefit (EB) for this violation</b>				
	<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Statutory Limit Test</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:** D & M Water Supply Corporation  
**Case ID No.:** 37146  
**Reg. Ent. Reference No.:** RN101441533  
**Media:** Public Water Supply  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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

Not applicable.

### 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

Not applicable.

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600675698 D & M Water Supply Corporation Classification: Rating:  
Regulated Entity: RN101441533 D & M WSC Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1740010  
WATER LICENSING LICENSE 1740010  
Location: ON FARM TO MARKET ROAD 225 APPROXIMATELY 1 MILE SOUTH OF DOUGLASS, NACOGDOCHES  
COUNTY, TEXAS  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: February 09, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 09, 2004 to February 09, 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? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

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

Effective Date: 04/05/2004 ADMINORDER 2003-1290-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.47(h)

Description: Failure to issue a boil water notice subsequent to an outage.

- 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 03/23/2007 (541854)

2 07/10/2008 (638358)

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

Date: 03/23/2007 (541854)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain the system's facilities and equipment.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)

Description: Failure to record flushing dates.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the system's facilities and equipment.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the system's facilities and equipment.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)  
 Description: Failure to provide a full-face self-contained breathing apparatus (SCBA) for each water plant using chlorine gas.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to perform the annual tank inspection on the system's tanks.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
 Description: Failure to have a working three inch pressure gauge on the ground storage tank at the Moral Plant.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(C)  
 Description: Failure to employ at least two operators who hold a Class C or higher groundwater license.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)  
 Description: Failure to conduct customer service inspections.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 Description: Failure to maintain an up-to-date monitoring plan.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 288, SubChapter C 288.30(5)  
 Description: Failure to have a drought contingency plan.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
 Description: Failure to have all electrical wires in conduit at the Douglas, Eden, and Alazan Water Plants.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the filters at the Gravel Ridge Plant.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the ground storage tank at the Moral Plant.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)  
 Description: Failure to install an appropriate backflow prevention assembly at the meter of an establishment where an actual or potential contamination hazard exists.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)  
 Description: Failure to perform an annual inspection on a backflow prevention assembly.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)  
 Description: Failure to provide a well capacity of 0.6 gallon per minute per connection.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)  
 Description: Failure to provide a service pump capacity of 2.0 gpm per minute per connection.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)  
 Description: Failure to provide a pressure tank capacity of 20 gallons per connection.

Date: 02/06/2008 (613457)

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(2)  
 Description: Failure to provide increased pressure by means of booster pumps taking suction from storage tanks.

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  
D & M WATER SUPPLY  
CORPORATION  
RN101441533

§  
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§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0261-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 D & M Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. 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 on Farm-to-Market Road 225 approximately one mile south of Douglass, Nacogdoches County, Texas (the "Facility") that has approximately 1,914 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 January 25, 2009.
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 Six Hundred Twenty Dollars (\$620) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Ninety-Six Dollars (\$496) of the administrative penalty and One Hundred Twenty-Four Dollars (\$124) 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 has 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 issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1), as documented during a record review conducted on September 30, 2008.
2. Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration ("FA") Account No. 91740010 for fiscal year 2009, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702, as documented during a record review conducted on February 9, 2009.

## **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: D & M Water Supply Corporation, Docket No. 2009-0261-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:

- i. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 91740010. The payments shall be sent with the notation "RE: D & M Water Supply Corporation; FA Account No. 91740010 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

- ii. Develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to the customers of the Facility in the event of distribution pressures below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that potability of the water may be compromised, in accordance with 30 TEX. ADMIN. CODE § 290.46.

- b. Within 45 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.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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

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.

D & M Water Supply Corporation  
DOCKET NO. 2009-0261-PWS-E  
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sedler  
For the Executive Director

8/21/2009  
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.

Gloria Montes  
Signature

8-29-2009  
Date

Gloria Montes  
Name (Printed or typed)  
Authorized Representative of  
D & M Water Supply Corporation

President  
Board of Directors  
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.

