

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1699-MLM-E TCEQ ID: RN101181576 CASE NO.: 7258
RESPONDENT NAME: FAIR ROAD PROPERTIES, INC.

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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 checked="" type="checkbox"/> UTILITY	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Approximately 6.8 miles east of US Highway 377 on the north side of Farm-to-Market Road 455, Denton County

TYPE OF OPERATION: Retail public water utility and public water system.

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired December 21, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Water Enforcement Section, MC R-13, (210) 403-4012

TCEQ Regional Contact: Mr. Sid Slocum, Dallas/Ft. Worth Regional Office, MC R-4, (817) 588-5901

Respondent: Ms. Carol Fendley, Vice-President, Fair Road Properties, Inc., 404 North Goliad, Rockwall, Texas 75087

Respondent's Attorney: Mr. Mark H. Zeppa, Law Offices of Mark H. Zeppa, P.C., 4833 Spicewood Springs Road, Suite 202
 Austin, Texas 78759-8436

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 11, 2007</p> <p>Date of NOE Relating to this Case: July 23, 2007</p> <p>Background Facts: The case was referred to the Litigation Division on January 28, 2008. The EDPRP was filed on March 18, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on October 19, 2009.</p> <p>Current Compliance Status: No outstanding technical requirements.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to obtain a Certificate of Convenience and Necessity ("CCN") prior to rendering retail water service directly to the public [30 TEX. ADMIN. CODE § 291.101, TEX. WATER CODE §§ 13.242(a) and 13.244, and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.c.ii.]. Failed to obtain a sanitary control easement or exception to the easement requirement that covers the land within 150 feet of the Facility's two uncapped wells [30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.i.i. and 2.j.ii.(4)]. Failed to provide a well casing for well no. 1 that is a minimum of 18 inches above the natural ground [30 TEX. ADMIN. CODE § 290.41(c)(3)(B) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.g.iii.]. Failed to provide a well casing vent for well no. 2 that has a 16-mesh or finer corrosion-resistant screen, faces downward, and is located so as to minimize the drawing of contaminants into the well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.ii.(3)]. Failed to compile a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.i.ii.]. 	<p>Total Assessed: \$14,455</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$420/\$14,035</p> <p>The Respondent paid \$420 of the administrative penalty. The remaining amount of \$14,035 shall be payable in 35 monthly payments of \$401 each.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: Indifference to legal duty based on failure to comply with prior Agreed Order, Docket No. 2002-0032-PWS-E.</p>	<p>Corrective Actions Taken: The Executive Director recognizes that the Respondent no longer owns or operates the Facility.</p>

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to design and construct the ground storage tank in accordance with American Water Works Association (“AWWA”) standards, including providing a roof access opening that is a minimum of 30 inches in diameter [30 TEX. ADMIN. CODE § 290.43(c)(2) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.i.iv.].</p> <p>7. Failed to complete customer service inspection certifications prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.e.i.].</p> <p>8. Failed to conduct an annual inspection of the water system’s one ground storage tank [30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.a.iv.].</p> <p>9. Failed to conduct annual inspections of the water system’s three pressure tanks [30 TEX. ADMIN. CODE § 290.46(m)(1)(B) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.a.v.].</p> <p>10. Failed to plug the water system’s one abandoned well with cement or return the well to a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.i.].</p> <p>11. Failed to maintain a copy of the well completion data on file for the two uncapped wells in the water system [30 TEX. ADMIN. CODE § 290.46(n)(3) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.e.ii. and 2.j.ii.(1)].</p> <p>12. Failed to securely install all electrical wiring at well no. 2 in accordance with a local or national electrical code [30 TEX. ADMIN. CODE § 290.46(v) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.ii.(2)].</p> <p>13. Failed to complete a materials survey of the water system and identify a pool of tap sampling sites from which lead and copper sampling is to be conducted, and failed to conduct lead and copper sampling on a routine basis [30 TEX. ADMIN. CODE § 290.117(b) and (c) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.c.i. and 2.e.iv].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	17-Sep-2007			
	PCW	5-May-2009	Screening	12-Oct-2007	EPA Due 29-Feb-2008

RESPONDENT/FACILITY INFORMATION

Respondent	Fair Road Properties, Inc.			
Reg. Ent. Ref. No.	RN101181576			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	7258	No. of Violations	1
Docket No.	2007-1699-MLM-E	Order Type	Findings
Media Program(s)	Public Water Utilities	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$700**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **27%** Enhancement **Subtotals 2, 3, & 7** **\$189**

Notes
The compliance history enhancement is due to one previous Notice of Violation containing a violation that is dissimilar to the violations in the current enforcement action and one prior agreed order without a denial of liability.

Culpability **No** **0%** Enhancement **Subtotal 4** **\$0**

Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0%** Reduction **Subtotal 5** **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes
The Respondent does not meet the good faith criteria.

0% Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$47	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$200	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$889**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount **\$889**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$889**

DEFERRAL **0%** Reduction **Adjustment** **\$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 **\$889**

PCW 1

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Utilities

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
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	1	25%
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) 27%

>> 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 compliance history enhancement is due to one previous Notice of Violation containing a violation that is dissimilar to the violations in the current enforcement action and one prior agreed order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Utilities

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 291.101, Tex. Water Code §§ 13.242(a) and 13.244, and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.c.ii.

Violation Description Failed to obtain a Certificate of Convenience and Necessity ("CCN") prior to rendering retail water service directly to the public.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$450

\$50

Violation Events

Number of Violation Events 14 1230 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$700

Fourteen quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, February 17, 2003, to the date the Respondent ceased operating the Facility, July 1, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$889

This violation Final Assessed Penalty (adjusted for limits) \$889

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Utilities

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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$2	\$45	\$47
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 cost includes the estimated amount to obtain a CCN for the water system, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$200

TOTAL \$47



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES	Assigned	17-Sep-2007	Screening	12-Oct-2007	EPA Due	29-Feb-2008
	PCW	5-May-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fair Road Properties, Inc.		
Reg. Ent. Ref. No.	RN101181576		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	7258	No. of Violations	12
Docket No.	2007-1699-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,600
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27% Enhancement	Subtotals 2, 3, & 7	\$2,592
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Notes: The compliance history enhancement is due to one prior Notice of Violation containing a violation that is dissimilar to the violations in the current enforcement action and one prior agreed order without a denial of liability.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$4,283	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$12,800		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,192
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OTHER FACTORS AS JUSTICE MAY REQUIRE	11.3%	Adjustment	\$1,374
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: The enhancement is recommended for recovery of the avoided costs of compliance.

Final Penalty Amount	\$13,566
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,566
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DEFERRAL	0% Reduction	Adjustment	\$0
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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	\$13,566
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PCW 2

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

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)	0	0%
	Other written NOVs	1	2%
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	1	25%
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) 27%

>> 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 compliance history enhancement is due to one prior Notice of Violation containing a violation that is dissimilar to the violations in the current enforcement action and one prior agreed order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.i.i. and 2.j.ii(4)

Violation Description Failed to obtain a sanitary control easement or exception to the easement requirement that covers the land within 150 feet of the Facility's two uncapped wells. Specifically, well nos. 1 and 2 do not have sanitary control easements.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Without sanitary control easements, the wells could be subject to an insignificant amount of contamination which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 2 1230 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

Two single events are recommended -- one event per well.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$81

Violation Final Penalty Total \$141

This violation Final Assessed Penalty (adjusted for limits) \$141

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.
Case ID No. 7258
Reg. Ent. Reference No. RN101181576
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$2	\$45	\$47
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)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$34	n/a	\$34

Notes for DELAYED costs
 The delayed costs include the amount to obtain sanitary control easements for the two uncapped wells, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$400

TOTAL \$81

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(B) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.g.iii.

Violation Description Failed to provide a well casing for well no. 1 that is a minimum of 18 inches above the natural ground.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential		x			

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Without a well casing that is the proper height, contaminants could enter the well and customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 14 1230 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,400

Fourteen quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, February 17, 2003, to the date the Respondent ceased operating the Facility, July 1, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$1,978

This violation Final Assessed Penalty (adjusted for limits) \$1,978

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$2	\$45	\$47
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 cost includes the amount to raise the well casing on well no. 1 to the proper height, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$200

TOTAL \$47

Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(K) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.ii.(3)
Violation Description Failed to provide a well casing vent for well no. 2 that has a 16-mesh or finer corrosion-resistant screen, faces downward, and is located so as to minimize the drawing of contaminants into the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential		x		10%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				
				0%

Matrix Notes Failure to have a proper casing vent could impact the the well pressure and the system's ability to provide a reliable water supply to its customers.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 14 1230 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,400

Fourteen quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, February 17, 2003, to the date the Respondent ceased operating the Facility, July 1, 2006.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$47

Violation Final Penalty Total \$1,978

This violation Final Assessed Penalty (adjusted for limits) \$1,978

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$2	\$45	\$47
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 cost includes the amount to install a casing vent on well no. 2, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$200

TOTAL \$47

Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 290.42(l) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.i.ii.
Violation Description Failed to compile a thorough and up-to-date plant operations manual for operator review and reference.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	<input type="text" value="100% of the rule requirement was not met."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$100"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.
Case ID No. 7258
Reg. Ent. Reference No. RN101181576
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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	\$200	17-Feb-2003	1-Jul-2006	3.4	\$34	n/a	\$34
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 to compile a plant operations manual, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$200

TOTAL \$34

Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(2) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.i.iv.
Violation Description Failed to design and construct the ground storage tank in accordance with American Water Works Association ("AWWA") standards, including providing a roof access opening that is a minimum of 30 inches in diameter.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		Percent 10%

>>Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%
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Matrix Notes Failure to have a proper roof opening on the ground storage tank could prevent proper maintenance and inspections from being performed and, as a result, customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 14 1230 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,400

Fourteen quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, February 17, 2003, the date the Respondent ceased operating the Facility, July 1, 2006.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$118 **Violation Final Penalty Total** \$1,978

This violation Final Assessed Penalty (adjusted for limits) \$1,978

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	17-Feb-2003	1-Jul-2006	3.4	\$6	\$112	\$118
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 to install a proper roof opening on the ground storage tank, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$500

TOTAL \$118

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(j) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.e.i.

Violation Description Failed to complete customer service inspection certifications prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

Matrix Notes 100% of the rule requirement is not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 1230 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$141

This violation Final Assessed Penalty (adjusted for limits) \$141

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.
Case ID No. 7258
Reg. Ent. Reference No. RN101181576
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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	\$250	17-Feb-2003	1-Jul-2006	3.4	\$42	n/a	\$42
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 cost includes the amount to establish a customer service inspection program that properly conducts customer service inspections and a record keeping system that maintains the inspection certificates, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$250

TOTAL \$42

Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number
Rule Cite(s)
 30 Tex. Admin. Code § 290.46(m)(1)(A) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.a.iv.
Violation Description
 Failed to conduct an annual inspection of the water system's one ground storage tank.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes
 Failure to conduct an inspection of the ground storage tank could result in non-detection of a tank defect which could cause customers of the water supply to be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of violation days
 mark only one with an x

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

Four annual events are recommended, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, February 17, 2003, to the date the Respondent ceased operating the Facility, July 1, 2006.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.
Case ID No. 7258
Reg. Ent. Reference No. RN101181576
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$50	17-Feb-2003	1-Jul-2006	3.4	\$8	\$168	\$177
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

The avoided costs include the amount to conduct an annual ground storage tank inspection, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Approx. Cost of Compliance \$50

TOTAL \$177

Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$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)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$150	17-Feb-2003	1-Jul-2006	3.4	\$25	\$505	\$531
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

The avoided cost includes the annual amount to conduct three annual pressure tank inspections, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Approx. Cost of Compliance \$150

TOTAL \$531

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 9

Rule Cite(s)

30 Tex. Admin. Code § 290.46(u) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.i.

Violation Description

Failed to plug the water system's one abandoned well with cement or return the well to a non-deteriorated condition. Specifically, well no. 2 has been abandoned, is in a deteriorated condition, and is not plugged.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Failure to properly plug the abandoned well could result in contamination entering the well, exposing customers of the water system to an insignificant amount of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 1230 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,359

Violation Final Penalty Total \$71

This violation Final Assessed Penalty (adjusted for limits) \$71

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	17-Feb-2003	1-Jul-2006	3.4	\$112	\$2,247	\$2,359
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 to properly plug the abandoned well, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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	\$10,000	TOTAL	\$2,359
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Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number 10
Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.e.ii. and 2.j.ii.(1)
Violation Description Failed to maintain a copy of the well completion data on file for the two uncapped wells in the water system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 1230 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$200

Two single events are recommended -- one event per well.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$81

Violation Final Penalty Total \$283

This violation Final Assessed Penalty (adjusted for limits) \$283

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 10

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$2	\$45	\$47
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)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$34	n/a	\$34

Notes for DELAYED costs
 The delayed cost includes the amount to obtain well completion data for all unplugged wells, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$400

TOTAL \$81

Screening Date 12-Oct-2007 **Docket No.** 2007-1699-MLM-E **PCW**
Respondent Fair Road Properties, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 7258 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN101181576
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 290.46(v) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.ii.(2)
Violation Description Failed to securely install all electrical wiring at well no. 2 in accordance with a local or national electrical code.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text" value="x"/>	Percent

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Matrix Notes	Failure to install electrical wiring at well no. 2 in accordance with a local or national code could cause electrical malfunction exposing the well to insignificant amount of contaminants that would not exceed levels protective of human health.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$50"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	

One single event is recommended.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 11

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	17-Feb-2003	1-Jul-2006	3.4	\$1	\$11	\$12
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 cost includes the amount to install the electrical wiring at well no. 2 in an approved conduit, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

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 \$50

TOTAL \$12

Screening Date 12-Oct-2007

Docket No. 2007-1699-MLM-E

PCW

Respondent Fair Road Properties, Inc.

Policy Revision 2 (September 2002)

Case ID No. 7258

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101181576

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

V12 12

Rule Cite(s)

30 Tex. Admin. Code § 290.117(b) and (c) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.c.i. and 2.e.iv.

Violation Description

Failed to complete a materials survey of the water system and identify a pool of tap sampling sites from which lead and copper sampling is to be conducted, and failed to conduct lead and copper sampling on a routine basis.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to complete a lead/copper sampling survey and conduct routine sampling could cause customers of the water system to be exposed to significant amounts of lead and copper, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 14 1230 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,400

Fourteen quarterly events are recommended, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, February 17, 2003, to the date the Respondent ceased operating the Facility, July 1, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$755

Violation Final Penalty Total \$1,978

This violation Final Assessed Penalty (adjusted for limits) \$1,978

Economic Benefit Worksheet

Respondent Fair Road Properties, Inc.

Case ID No. 7258

Reg. Ent. Reference No. RN101181576

Media Public Water Supply

Violation No. 12

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	17-Feb-2003	1-Jul-2006	3.4	\$2	\$45	\$47
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 cost includes the amount to complete and submit a sampling survey, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$200	17-Feb-2003	1-Jul-2006	3.4	\$34	\$674	\$708
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 The avoided cost includes the annual amount to conduct routine lead/copper sampling, calculated from the effective date of Agreed Order Docket No. 2002-0032-PWS-E, to the date the Respondent ceased operating the Facility.

Approx. Cost of Compliance \$400 **TOTAL** \$755

Compliance History

Customer/Respondent/Owner-Operator:	CN600629075	Fair Road Properties, Inc.	Classification:	Rating:
Regulated Entity:	RN101181576	LIGHT RANCH ESTATES	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		0610226
	WATER LICENSING	LICENSE		0610226
Location:	ON FM 455 6.8 MI E OF HWY 377, DENTON COUNTY			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	October 12, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 12, 2002 to October 12, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Rebecca Clausewitz</u>	Phone:	<u>(210) 403-4012</u>	

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 judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 02/17/2003

ADMINORDER 2002-0032-PWS-E

Classification: Moderate

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

Description: Failure to provide microbiological sampling report records.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)[G]

4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to collect one microbiological sample from the distribution system regularly each month.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.a.iv. ORDER

Description: Failure to conduct an annual inspection of the Facility's one ground storage tank.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.a.v. ORDER

Description: Failure to conduct annual inspections of the Facility's three pressure tanks.

Classification: Moderate

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

Description: Failure to obtain service agreements with each customer.

Classification: Major

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

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.e.i. ORDER

Description: Failure to complete a customer service inspection certificate prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities has been made.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.i.i. ORDER

Dock. No. 2002-0032-PWS-E; OP 2.j.ii.(4) ORDER

Description: Failure to obtain a sanitary control easement or an exception to the easement requirement that covers the land within 150 feet of each unplugged well in the water system. Specifically, well nos. 1 and 2 do not have sanitary control easements.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.e.ii. ORDER
Dock. No. 2002-0032-PWS-E; OP 2.j.ii.(1) ORDER

Description: Failure to maintain a copy of the well completion data on file for the two uncapped wells in the water system.

Classification: Major

Citation: 2B TWC Chapter 13, SubChapter A 13.242(a)

2B TWC Chapter 13, SubChapter A 13.244[G]

30 TAC Chapter 291, SubChapter G 291.101(a)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.c.ii. ORDER

Description: Failed to obtain a Certificate of Convenience and Necessity prior to rendering retail water service directly to the public.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.i.ii. ORDER

Description: Failure to compile and maintain an up-to-date plant operations manual for operator review and reference.

Classification: Minor

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

Description: Failure to post an ownership sign.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failure to provide a water level indicator on the ground storage tank.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(5)

Description: Failure to locate the inlet and outlet to the ground storage tank to prevent short circuiting and stagnation of water.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the free chlorine residual at 0.2 milligrams per liter throughout the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to provide a minimum well capacity of .6 gals per minute per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to provide a minimum storage tank capacity of 200 gals per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to provide a minimum pressure storage capacity of 20 gals per connection.

Classification: Major

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

Rqmt Prov: Dock. 2002-0032-PWS-E; OP 2.j.i. or ii. ORDER

Description: Failure to plug all abandoned wells with cement or return the wells to a non-deteriorated condition. Specifically, well no. 2 has been abandoned and is in a deteriorated condition.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.g.iii. ORDER

Description: Failure to provide well no. 1 with a well casing that is a minimum of 18 inches above the natural ground surface.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.j.ii.(3) ORDER

Description: Failure to provide well no. 2 with a well casing vent with an opening that is covered with a 16-mesh or finer, corrosion-resistant screen and that is facing downward and elevated so as to minimize the drawing of contaminants into the well.

Classification: Major

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

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.j.ii.(2) ORDER

Description: Failure to securely install all electrical wiring at well no. 2 in accordance with a local or national electrical code.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Rqmt Prov: OP 2.e.vii ORDER

Description: Failure to provide each well with a flow meter.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.i.iv. ORDER

Description: Failure to design the ground storage tank in accordance with AWWA standards, including providing a roof opening that is not less than 30 inches in diameter.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.117(b)[G]

30 TAC Chapter 290, SubChapter F 290.117(c)[G]

Rqmt Prov: Dock. No. 2002-0032-PWS-E; OP 2.c.ii. ORDER

Dock. No. 2002-0032-PWS-E; OP 2.e.iv. ORDER

Description: Failure to complete a materials survey of the water system and identify a pool of tap sampling sites from which lead and copper sampling is to be conducted.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)[G]

Description: Failed to pay the Public Health Service fees and late fees.

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 07/26/2007 (564731)

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

Date: 08/22/2003 (149125)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all water system lines and related appurtenances in a watertight condition. In this connection, the leaking lines located at or near lot numbers 1 and 15 must be repaired or replaced as necessary.

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
FAIR ROAD PROPERTIES, INC.,
RN101181576**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-1699-MLM-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Fair Road Properties, Inc. ("Fair Road Properties") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13. The Executive Director of the TCEQ, represented by the Litigation Division, and Fair Road Properties represented by Mark H. Zeppa of the Law Offices of Mark H. Zeppa, P.C., presented this agreement to the Commission.

Fair Road Properties 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, Fair Road Properties agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Fair Road Properties.

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

FINDINGS OF FACT

1. At the time of the violations, Fair Road Properties owned a retail public water utility and public water system located approximately 6.8 miles east of US Highway 377 on the north side of Farm-to-Market Road 455 in Denton County, Texas (the "Facility").
2. The Facility provides water for human consumption, has 38 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water

supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63). The Facility operates, maintains, or controls in this state facilities for providing potable water service or sewer service, or both, for compensation. As such, the Facility is a retail public utility as defined in TEX. WATER CODE § 13.002(19).

3. During a record review conducted on June 11, 2007, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Fair Road Properties:
 - a. Failed to obtain a Certificate of Convenience and Necessity ("CCN") prior to rendering retail water service directly to the public.
 - b. Failed to obtain a sanitary control easement or exception to the easement requirement that covers the land within 150 feet of the Facility's two uncapped wells. Specifically, well nos. 1 and 2 do not have sanitary control easements.
 - c. Failed to provide a well casing for well no. 1 that is a minimum of 18 inches above the natural ground.
 - d. Failed to provide a well casing vent for well no. 2 that has a 16-mesh or finer corrosion-resistant screen, faces downward, and is located so as to minimize the drawing of contaminants into the well.
 - e. Failed to compile a thorough and up-to-date plant operations manual for operator review and reference.
 - f. Failed to design and construct the ground storage tank in accordance with American Water Works Association ("AWWA") standards, including providing a roof access opening that is a minimum of 30 inches in diameter.
 - g. Failed to complete customer service inspection certifications prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities.
 - h. Failed to conduct an annual inspection of the Facility's one ground storage tank.
 - i. Failed to conduct annual inspections of the Facility's three pressure tanks.
 - j. Failed to plug the Facility's one abandoned well with cement or return the well to a non-deteriorated condition. Specifically, well no. 2 has been abandoned, is in a deteriorated condition, and is not plugged.

- k. Failed to maintain a copy of the well completion data on file for the two uncapped wells at the Facility.
 - l. Failed to securely install all electrical wiring at well no. 2 in accordance with a local or national electrical code.
 - m. Failed to complete a materials survey of the Facility and identify a pool of tap sampling sites from which lead and copper sampling is to be conducted and failed to conduct lead and copper sampling on a routine basis.
4. Fair Road Properties received notice of the violations on or about July 28, 2007.
 5. The Executive Director recognizes that Fair Road Properties no longer owns or operates the Facility.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Fair Road Properties is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 13, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Fair Road Properties failed to obtain a CCN prior to rendering retail water service directly to the public, in violation of 30 TEX. ADMIN. CODE § 291.101; TEX. WATER CODE §§ 13.242(a) and 13.244; and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.c.ii.
3. As evidenced by Finding of Fact No. 3.b., Fair Road Properties failed to obtain a sanitary control easement or exception to the easement requirement that covers the land within 150 feet of the Facility's two uncapped wells, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.i.i. and 2.j.ii(4).
4. As evidenced by Finding of Fact No. 3.c., Fair Road Properties failed to provide a well casing for well no. 1 that is a minimum of 18 inches above the natural ground, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(B) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.g.iii.
5. As evidenced by Finding of Fact No. 3.d., Fair Road Properties failed to provide a well casing vent for well no. 2 that has a 16-mesh or finer corrosion-resistant screen, faces downward, and is located so as to minimize the drawing of contaminants into the well, in

violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.ii.(3)

6. As evidenced by Finding of Fact No. 3.e., Fair Road Properties failed to compile a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.i.ii.
7. As evidenced by Finding of Fact No. 3.f., Fair Road Properties failed to design and construct the ground storage tank in accordance with AWWA standards, including providing a roof access opening that is a minimum of 30 inches in diameter, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.i.iv.
8. As evidenced by Finding of Fact No. 3.g., Fair Road Properties failed to complete customer service inspection certifications prior to providing continuous water service to new construction, on any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.e.i.
9. As evidenced by Finding of Fact No. 3.h., Fair Road Properties failed to conduct an annual inspection of the Facility's one ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.a.iv.
10. As evidenced by Finding of Fact No. 3.i., Fair Road Properties failed to conduct annual inspections of the Facility's three pressure tanks, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.a.v.
11. As evidenced by Finding of Fact No. 3.j., Fair Road Properties failed to plug the Facility's one abandoned well with cement or return the well to a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.i.
12. As evidenced by Finding of Fact No. 3.k., Fair Road Properties failed to maintain a copy of the well completion data on file for the two uncapped wells at the Facility, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.e.ii. and 2.j.ii.(1)

13. As evidenced by Finding of Fact No. 3.l., Fair Road Properties failed to securely install all electrical wiring at well no. 2 in accordance with a local or national electrical code, in violation of 30 TEX. ADMIN. CODE § 290.46(v) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provision 2.j.ii.(2)
14. As evidenced by Finding of Fact No. 3.m., Fair Road Properties failed to complete a materials survey of the Facility and identify a pool of tap sampling sites from which lead and copper sampling is to be conducted and failed to conduct lead and copper sampling on a routine basis, in violation of 30 TEX. ADMIN. CODE § 290.117(b) and 290.117(c) and Agreed Order Docket No. 2002-0032-PWS-E, Ordering Provisions 2.c.i. and 2.e.iv.
15. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 13.4151, the Commission has the authority to assess an administrative penalty against Fair Road Properties 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.
16. An administrative penalty in the amount of fourteen thousand four hundred fifty-five dollars (\$14,455.00) 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 and TEX. WATER CODE § 13.4151. Fair Road Properties has paid four hundred twenty dollars (\$420.00) of the administrative penalty. The remaining amount of fourteen thousand thirty-five dollars (\$14,035.00) of the administrative penalty shall be payable in thirty-five monthly payments of four hundred one dollars (\$401.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If Fair Road Properties fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Fair Road Properties to meet the payment schedule of this Agreed Order constitutes the failure by Fair Road Properties to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Fair Road Properties is assessed an administrative penalty in the amount of fourteen thousand four hundred four hundred fifty-five dollars (\$14,455.00) as set forth in Conclusion of Law

No. 16 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Fair Road Properties' 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Fair Road Properties, Inc.; Docket No. 2007-1699-MLM-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon Fair Road Properties.
3. 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 Fair Road Properties if the Executive Director determines that Fair Road Properties has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. This Agreed Order, issued by the Commission, shall not be admissible against Fair Road Properties 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.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to Fair Road Properties, or three days after the date on which the Commission mails notice of this Agreed Order to Fair Road Properties, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Ferguson Paulsen

For the Executive Director

12/22/09

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Fair Road Properties, Inc. I represent that I am authorized to agree to the attached Agreed Order on behalf of Fair Road Properties, Inc., 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 also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on Fair Road Properties' compliance history;
- Greater scrutiny of any permit applications submitted by Fair Road Properties;
- 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 against Fair Road Properties;
- ~~Automatic~~ referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Carol Fendley

Signature

October 19, 2009

Date

CAROL FENDLEY

Name (printed or typed)

VICE PRES.

Title

Authorized Representative
Fair Road Properties, Inc.