

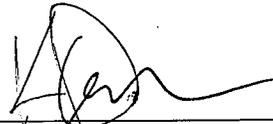
**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGENDA ITEM REQUEST**

NAME & NUMBER OF PERSON TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED:

Peipey Tang (512) 239-0654

CAPTION: (as it should appear on the agenda with the name of the person PRESENTING the item listed at the end)

Docket No. 2010-1589-UCR-E Consideration of whether to modify, affirm, or set aside the Emergency Order issued on September 29, 2010, by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code chs. 5 and 13, Tex. Health & Safety Code ch. 341, and the rules of the Texas Commission on Environmental Quality, to address the abandonment of a retail public utility (Utility) by Falcon Club Utility Company, Inc. in Randall County; TCEQ ID No. RN104523386; CCN13084 to ensure continued operation of the Utility and to provide continuous and adequate service to the customers. The Emergency Order appointed Brent Herbolzheimer as temporary manager of the Utility. (Peipey Tang)



**Kathleen C. Decker, Director
Litigation Division**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF
AN ENFORCEMENT ACTION
CONCERNING FALCON CLUB
UTILITY COMPANY, INC.;**
RN104523386
CCN13084

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**ORDER AFFIRMING EMERGENCY ORDER
DOCKET NO. 2010-1589-UCR-E**

On November 3, 2010, the Texas Commission on Environmental Quality ("TCEQ" or "Commission") considered whether to affirm, modify, or set aside an Emergency Order in the matter regarding Falcon Club Utility Company, Inc. ("Falcon Club"). The Emergency Order was issued by the Executive Director without a hearing on September 29, 2010. The Emergency Order and the notice of the November 3, 2010 agenda hearing to affirm, modify, or set aside the Emergency Order were sent by certified mail return receipt requested, and sent by first class mail, postage prepaid to the last known address of Falcon Club on September 29, 2010. The Emergency Order was also hand delivered to Paul Gillette, Director of Falcon Club on September 29, 2010. The Emergency Order was also sent by first class mail, postage prepaid to Patrick Swindell, attorney for Paul Gillette. The Commission finds that the Executive Director appropriately issued the Emergency Order and that the requirements for an emergency order found in Chapters 5 and 13 of the Texas Water Code have been satisfied.

**THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY ORDERS THAT:**

The September 29, 2010 Emergency Order, attached hereto as Exhibit A and incorporated into this Order by reference, is affirmed.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Exhibit A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2010-1589-UCR-E

<p>IN THE MATTER OF AN ENFORCEMENT ACTION AGAINST FALCON CLUB UTILITY COMPANY, INC.; RN104523386; CCN13084</p>	<p>§ § § § § §</p>	<p>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</p>
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**EMERGENCY ORDER
APPOINTING A TEMPORARY MANAGER
OF A WATER UTILITY**

On September 29, 2010, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE chs. 5 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The party made subject to this order is Falcon Club Utility Company, Inc. ("Falcon Club").

**I.
FINDINGS OF FACT**

1. Falcon Club owns and operates a public water system located at 19100 Falcon Club Dr., Amarillo, Randall County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 25 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. The Utility operates pursuant to Certificate of Convenience and Necessity No. 13084.
4. Falcon Club has abandoned the Utility by failing to pay a bill owed to an electric utility resulting in the electric utility issuing a notice of discontinuance of necessary services ("Exhibit A"). The current service disconnection date on the electric utility account is September 30, 2010 ("Exhibit B").
5. Paul Gillette ("Mr. Gillette") is the sole Director of Falcon Club. Mr. Gillette is currently detained at the Potter County Detention Center in an unrelated criminal matter. On September 7, 2010, the Executive Director sent a letter to Mr. Gillette to determine Falcon Club's intentions in continuing operations at the Utility ("Exhibit

- C”). The Executive Director also contacted Mr. Gillette’s attorneys to determine Falcon Club’s intentions in continuing operations at the Utility. To date, the Executive Director has not received any communications from Mr. Gillette or his attorneys regarding Falcon Club’s intentions in continuing operations at the Utility (“Exhibit B”).
6. Commission records show that the mailing address for Falcon Club is 19100 Falcon Club Dr., Amarillo, Texas, 79119.
 7. No other source of water is available to the more than 75 people whose water is supplied by the Utility.
 8. A potential health hazard exists as a result of the abandonment of the Utility. Mr. Herbolsheimer (“Mr. Herbolsheimer”) is a licensed Class C operator and is overseeing operation of the Utility (“Exhibit D”). Currently, the electricity bill has not been paid and Mr. Herbolsheimer has no authority to bill or collect on a bill for water service. Expenses for the Utility are accruing and if the electricity is shutoff, 25 service connections will be without water. A temporary manager is necessary to assume operations of the Utility to ensure that water is provided to Utility customers and to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health & Safety Code, and is safe for public use and consumption.
 9. Brent Herbolsheimer has agreed to serve as temporary manager of the Utility and his mailing address is 5812 S. Rusk, Amarillo, Texas, 79118. His telephone number is (806) 683-5936.
 10. This Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.

II. CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1, 2, and 3, Falcon Club owns and operates the retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 4, 7, and 8 show that the Utility has abandoned operations and that the appointment of a temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to temporarily manage and operate a utility if the utility has discontinued service or

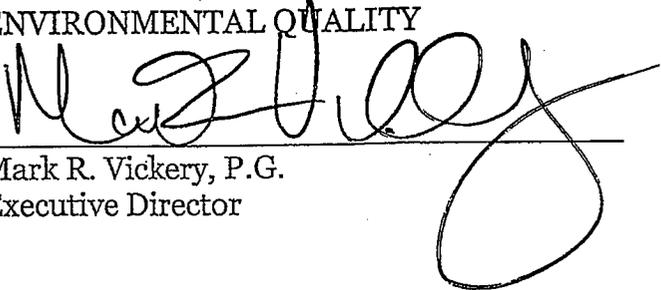
- abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.
4. TEX. WATER CODE § 5.507 provides that the Commission may issue an emergency order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.
 5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. ADMIN. CODE § 35.25.
 6. TEX. WATER CODE § 5.501(c) and 30 TEX. ADMIN. CODE §§ 35.12 and 291.143(a) authorize the TCEQ Executive Director to issue this Emergency Order.
 7. TEX. WATER CODE §§ 5.501 and 5.507 and 30 TEX. ADMIN. CODE § 291.143(a) authorize the Executive Director to appoint a person to temporarily manage and operate a utility that has discontinued or abandoned operations or which is being referred to the office of the Attorney General for the appointment of the receiver.
 8. TEX. WATER CODE § 13.4132 provides to the temporary manager the powers and duties necessary to ensure continued operation of the utility and the provision of continuous and adequate services to customers including the power and duty to read meters, bill for services, collect revenues, disburse funds, access all system components, and request rate increases.
 9. Notice of the emergency order, once it has been issued, is adequate if the notice is mailed or hand delivered to the last known address of the Utility's headquarters, in accordance with TEX. WATER CODE § 5.507. The last known address of Falcon Club is set forth in Finding of Fact No. 6.

III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. September 29, 2010.
2. Immediately upon the effective date of this Emergency Order, Mr. Herbolsheimer is hereby appointed to temporarily manage and operate the Utility.
3. Mr. Herbolsheimer shall serve as temporary manager until such time as a receiver is appointed to operate the Utility by a court of proper jurisdiction, or 180 days after the effective date of this Order i.e. March 28, 2011, whichever occurs first.

4. Mr. Herbolsheimer is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.
5. Mr. Herbolsheimer shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.
6. Mr. Herbolsheimer's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
7. Mr. Herbolsheimer's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection.
8. Mr. Herbolsheimer shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).
9. Pursuant to TEX. WATER CODE § 5.504, the Commission will consider whether to affirm, modify or set aside this Order at its regular Agenda meeting on November 3, 2010 at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the November 3, 2010 Agenda meeting, Falcon Club may request an evidentiary hearing pursuant to 30 TEX. ADMIN. CODE § 35.25(c) for the purpose of presenting evidence and cross-examining witnesses regarding whether to affirm, modify, or set aside this Emergency Order. An Administrative Law Judge will be present at the Agenda to immediately hear the matter should a hearing be requested.**
10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY



Mark R. Vickery, P.G.
Executive Director

From: "Tigrett, JoDell" <JoDell.Tigrett@XCELENERGY.COM>
Date: Thu, 23 Sep 2010 07:55:41 -0600
To: BHERBY1968@HOTMAIL.COM<BHERBY1968@HOTMAIL.COM>
Subject: FALCON CLUB UTILITY CO ACT 7824998

Attn: Brent,

I show that the service could be disconnected here anytime after 09232010. The balance that is up for disconnect is \$414.57.

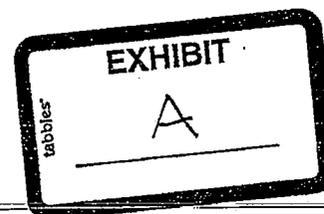
Let me know what you want to do?

Thanks.

Jo Dell Tigrett
Xcel Energy | Responsible By Nature
Commercial Credit Specialist
4701 Parkside Drive, Amarillo, TX 79109
P:806.640.6117F:612.573.4022
E:jodell.tigrett@xcelenergy.com (<mailto:jodell.tigrett@xcelenergy.com>)

XCELENERGY.COM

Please consider the environment before printing this email.



AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On August 30, 2010, I spoke with Richard Lee King, criminal attorney for Paul Gillette regarding Falcon Club Utility Company, Inc.'s intentions in continuing services at the Utility. Mr. King referred me to Patrick Swindell, civil attorney for Paul Gillette.

On August 30, 2010 and September 3, 2010, I left messages with Mr. Swindell regarding Falcon Club Utility Company Inc. On August 31, 2010 and September 9, 2010, Mr. Swindell left me messages. On September 9, 2010, I left Mr. Swindell a message asking him to call me back if he would be able to determine if Falcon Club Utility Company, Inc. would continue operations at the Utility. On September 28, 2010, I left Mr. Swindell a message regarding the issuance of an emergency order for the Utility. To date, I have not received any further communications from Mr. Swindell.

On September 23, 2010, I spoke with Jo Dell Tigrett, a representative of Xcel Energy, the electric utility company for Falcon Club Utility Company, Inc. Ms. Tigrett confirmed that Brent Herbolsheimer requested a hold on the electric utility account and the service disconnection date on the electric utility account is September 30, 2010.

On September 27, 2010, I called the Potter County Detention Center and confirmed that Paul Gillette received a letter from me dated September 7, 2010 on September 9, 2010.

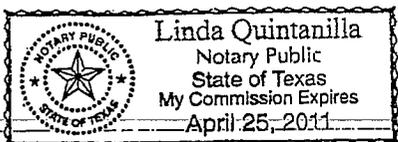
Peipey Tang
Peipey Tang
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28 day of September, A.D., 2010.

Linda Quintanilla
Notary Signature

Notary Stamp



Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 7, 2010

Via First Class Mail, Postage Pre-Paid

Paul David Gillette
Potter County Detention Center
13100 Northeast 29th Avenue
Amarillo, Texas 79111

Re: Falcon Club Utility Company, Inc.
Intent to Ensure Continuous and Adequate Service

Dear Mr. Gillette,

The purpose of this letter is to determine Falcon Club Utility Company, Inc.'s ("Utility") intentions regarding the provision of water service to its customers. Falcon Club Utility Company, Inc. operates pursuant to Certificate of Convenience and Necessity ("CCN") No. 13084. As a CCN holder and pursuant to 30 TEX. ADMIN. CODE § 291.114, Falcon Club Utility Company, Inc. must provide continuous and adequate service to every customer.

Currently, the electricity bill is overdue for the Utility. Although Brent Herbolsheimer is currently overseeing operation of the Utility, he has no authority to bill or collect payments for water service. Expenses for the Utility are accruing and if, in particular, the electricity bill is not paid soon the electricity will be shutoff, and then Falcon Club Utility Company's customers will be without water. As noted above, failure to provide continuous and adequate service to your customers is a violation of the Texas Commission on Environmental Quality's rules.

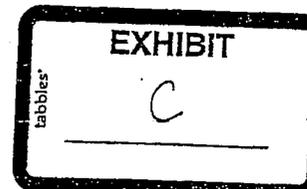
As director of Falcon Club Utility Company, Inc., please respond to this letter with Falcon Club's intentions to maintain operations at the Utility by paying the outstanding electricity bill and providing continuous and adequate service to the Utility customers. Please also respond in writing how Falcon Club Utility Company, Inc. intends to continue operations at the Utility.

Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-0654.

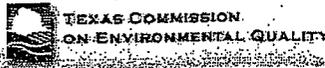
Sincerely,

A handwritten signature in cursive script that reads "Peipey Tang".

Peipey Tang
Attorney
Litigation Division



.cc: Mr. Jim McWilliams, Water Section Manager, Amarillo Regional Office
Mr. Terence Webb, Receivership Coordinator
Ms. Tammy Holguin-Benter, Utilities and Districts
Mr. Blas Coy, Office of Public Interest Counsel



[Questions or Comments](#)

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TCEQ Search Licensing or Registration Information

License Detail

To report a change of address or work phone number, please e-mail licenses@tceq.state.tx.us. Make sure to include your TCEQ license number.

Name: HERBOLSHEIMER, BRENT L
Address: 5812 S RUSK ST
City: AMARILLO
State: TX
ZIP: 79118-8818
County: RANDALL
Work Phone: 806-683-5936
 806-275-1671

License(s)

There were 2 licenses found.

Program	License Type and Level	License Number	Last Issued Date	Exp. Date	CEUs Earned	License Status
WATEROL	GROUND WATER TREATMENT OPERATOR C	WG0011736	12/09/2008	12/09/2011	0	CURRENT
WATEROL	WATER OPERATOR D	W00022660	10/23/2007	12/09/2008	N/A	EXPIRED

Note: The number of CEUs needed in order to renew a license is based on the term (length) of each license. Please go to the program page for the license you hold to determine the number of CEUs needed and to view the latest information and renewal requirements for your license.

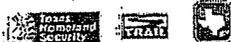
Course(s)

There were 3 courses found. **Note:** You may see the same course listed multiple times. This occurs because the course counted towards multiple license programs.

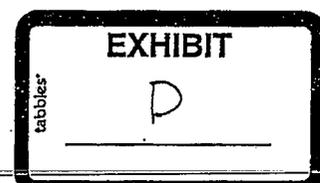
Program	Course Title	Course Code	Hours	Date	Provider
WATEROL	GROUNDWATER PRODUCTION	223	20.0	11/06/2008	W TEX RS
WATEROL	WATER DISTRIBUTION	605	20.0	09/25/2008	PANHDL RS
WATEROL	BASIC WATER	92	20.0	09/27/2007	PANHDL RS

Note: Please allow 45 days from the last date of the training session for a record to appear in the search results. If a course does not appear on your training record after three months, please fax a copy of the course-completion certificate to 512/239-6272. Include either your TCEQ license number or Social Security Number if neither is displayed on the certificate.

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Last Modified 12/4/08
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AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On September 29, 2010, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I sent via Certified Mail Return Receipt Requested (Article No. 7009 1680 0002 2322 8639), and via First Class Mail, postage prepaid to Mr. Paul Gillette, Director, Falcon Club Utility Company, Inc., 19100 Falcon Club Dr., Amarillo, Texas 79119-2503, the September 29, 2010 Emergency Order and the Notice of Hearing to Modify, Affirm, or Set Aside the September 29, 2010 Emergency Order set for the November 3, 2010 Commission Agenda.

On September 29, 2010, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I sent via First Class Mail, postage prepaid to Mr. Patrick Swindell, attorney for Mr. Paul Gillette, the September 29, 2010 Emergency Order and the Notice of Hearing to Modify, Affirm, or Set Aside the September 29, 2010 Emergency Order set for the November 3, 2010 Commission Agenda.

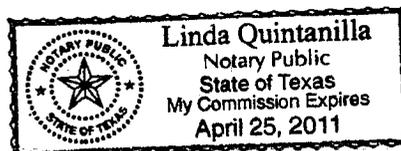
Peipey Tang
Peipey Tang
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 14 day of October, A.D., 2010.

Linda Quintanilla
Notary Signature

Notary Stamp



AFFIDAVIT OF JIM MCWILLIAMS

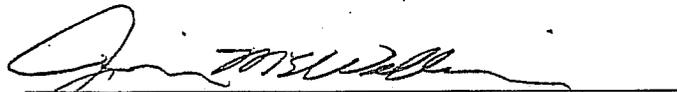
STATE OF TEXAS

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COUNTY OF POTTER

My name is Jim McWilliams. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

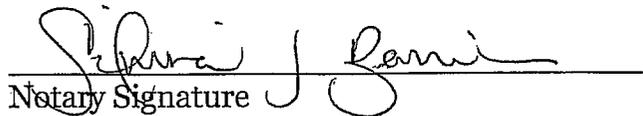
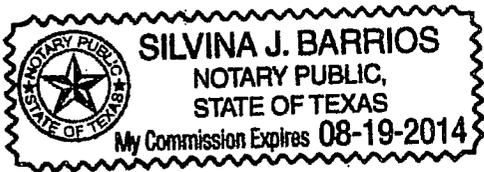
On September 29, 2010, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I personally attempted to hand deliver to Paul Gillette, the Notice and Emergency Order set for the November 3, 2010 Commission Agenda. The Notice and Emergency Order were hand delivered to Jake Cameron, Correction Office, Potter County Detention Center. Officer Cameron stated that he would personally deliver the Notice and Emergency Order to Mr. Gillette.



Jim McWilliams
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day appeared Jim McWilliams, personally known to me to be the person whose name is subscribed to the foregoing instrument and upon his oath acknowledged to me that the facts herein are true and correct.

Given under my hand and seal of office this 13th day of October,
A.D., 2010.



Notary Signature

Notary Stamp

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2010-1589-UCR-E TCEQ ID RN104523386
RESPONDENT NAME: FALCON CLUB UTILITY COMPANY, INC.

ORDER TYPE:		
<input 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 checked="" type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input 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 type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 19100 Falcon Club Dr., Amarillo, Randall County

TYPE OF OPERATION: Public water system and retail public utility (Utility)

SMALL BUSINESS: Yes No N/A

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: Pursuant to TEX. WATER CODE § 7.075, publication is not required for an Emergency Order.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654.

TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Section, MC 169, (512) 239-1482.

TCEQ Regional Contact: Mr. Jim McWilliams, Section Manager, Amarillo Regional Office, MC R-1, (806) 468-0520.

Respondent: Mr. Paul Gillette, Director, Falcon Club Utility Company, Inc., 19100 Falcon Club Dr., Amarillo, Texas 79119-2503.

Respondent's Attorney: Mr. Patrick Swindell, Swindell & Associates, PC, 910 W 7th, Amarillo, Texas 79101.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: N/A</p> <p>Date of Investigation Relating to this Case: N/A</p> <p>Date of NOE Relating to this Case: N/A</p> <p>Background Facts: The Utility provides potable water service for compensation to approximately 25 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. No other source of water is available to the more than 75 people whose water is supplied by the Utility.</p> <p>Falcon Club has abandoned the Utility by failing to pay a bill owed to an electric utility resulting in the electric utility issuing a notice of discontinuance of necessary services, with a disconnection date of September 30, 2010.</p> <p>Paul Gillette ("Mr. Gillette") is the sole Director of Falcon Club. Mr. Gillette is currently detained at the Potter County Detention Center in an unrelated criminal matter. On September 7, 2010, the Executive Director sent a letter to Mr. Gillette to determine Falcon Club's intentions in continuing operations at the Utility. The Executive Director also contacted Mr. Gillette's attorneys to determine Falcon Club's intentions in continuing operations at the Utility. To date, the Executive Director has not received any communications from Mr. Gillette or his attorneys regarding Falcon Club's intentions in continuing operations at the Utility.</p> <p>A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to operate the Utility to ensure the quality of the water meets TCEQ rule requirements, complies with the Texas Water Code and the Texas Health & Safety Code, and is safe for public use and consumption.</p> <p>On September 29, 2010, the Executive Director issued an Emergency Order appointing Brent Herbolsheimer ("Mr. Herbolsheimer") as Temporary Manager for the Utility.</p> <p>The Executive Director is requesting approval of the Emergency Order appointing Mr. Herbolsheimer as the temporary manager for 180 days.</p> <p>PWS: Abandoned operations [TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c)].</p>	<p>N/A</p>	<p>Ordering Provisions:</p> <ol style="list-style-type: none"> 1. Immediately upon the effective date of the Emergency Order, Mr. Herbolsheimer shall serve as temporary manager until a receiver is appointed or 180 days after the effective date of the Emergency Order; i.e. March 28, 2011. 2. Mr. Herbolsheimer is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132. 3. Mr. Herbolsheimer shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order. 4. Mr. Herbolsheimer's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c). 5. Mr. Herbolsheimer's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection. 6. Mr. Herbolsheimer shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).

Compliance History Report

Customer/Respondent/Owner-Operator: CN603276940 Falcon Club Utility Company, Inc. Classification: Rating:
 Regulated Entity: RN104523386 FALCON CLUB UTILITY Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1910053
 Location: 7116 W INTERSTATE 40 STE A, AMARILLO, TX, 79106
 TCEQ Region: REGION 01 - AMARILLO
 Date Compliance History Prepared: October 06, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 05, 2005 to October 05, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator 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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 03/30/2007 | (555503) |
| 2 | 12/18/2007 | (611981) |
| 3 | 07/16/2008 | (685176) |
| 4 | 07/28/2009 | (761885) |
| 5 | 08/17/2010 | (849188) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 03/30/2007 | (555503) | CN603276940 |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M) | | |
| Description: | Failure to provide an adequate sampling tap on each well. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O) | | |
| Description: | Failure to provide an intruder-resttant fence or adequate well house for each well. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(c)(1) | | |
| Description: | Failure to provide a proper roof vent on each ground storage tank. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(c)(2) | | |
| Description: | Failure to provide a roof hatch of adequate size and construction on each ground storage tank. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(c)(3) | | |
| Description: | Failure to provide a proper hinged flap valve on each ground storage tank | | |

overflow pipe.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to provide intruder-resistant fencing or adequate enclosures around the ground storage tanks and the pressure tank.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)
 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
 Description: Failure to maintain an adequate chlorine residual throughout the distribution system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
 Description: Failure to secure an adequate service agreement with each customer.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: Failure to conduct Customer Service Inspections on each new connection prior to providing service.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 Description: Failure to post ownership signs at wells and storage facilities.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(i)
 Description: Failure to obtain approval for changes in storage tank construction plans.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(d)(3)(C)
 Description: Failure to properly notify the TCEQ of completion of construction work.

Date: 07/15/2010 (829112)

CN603276940

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure by the facility to repair leaks on the public water system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)
 Description: Failure by the facility to maintain the intruder resistant fence around the wells and storage

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
 Description: Failure by the facility to supply locking mechanism for roof access portals on either of the two storage tanks.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
 Description: Failure by the facility to maintain a working liquid level indicator on the storage tanks.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
 Description: Failure by the facility to maintain the required minimum disinfection residual.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 291, SubChapter F 291.93
 Description: Failure to provide continuous and adequate service.

- 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