

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2009-0917-PWS-E TCEQ ID: RN102682291 CASE NO.: 37771
RESPONDENT NAME: MOORE'S WATER SYSTEM OF BEAVER LAKE, INC.**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATIONS OCCURRED: 476 Beaver Lane, Waco, McLennan County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. The Respondent owes \$1,674 in past-due administrative penalties (2008-1040-PWS-E).</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired February 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="padding-left: 20px;">TCEQ Attorney: Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="padding-left: 20px;">TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717</p> <p style="padding-left: 20px;">TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001</p> <p style="padding-left: 20px;">Respondent: Mr. John L. Moore, Director, Route 4, Box 371, Waco, Texas 76705</p> <p style="padding-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: ___ Complaint ___ Routine <input checked="" type="checkbox"/> Enforcement Follow-up ___ Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 29, 2009</p> <p>Date of NOE Relating to this Case: May 20, 2009</p> <p>Background Facts: The EDPRP was filed on October 14, 2009. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)]. Failed to calibrate all well meters at least once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)]. Failed to provide Facility records and make them accessible for Commission review during inspections [30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision No. 2.a.]. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision No. 2.e.]. Failed to develop and maintain an up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(1) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision No. 2.c.i.]. 	<p>Total Assessed: \$3,851</p> <p>Total Deferred: \$0 ___ Expedited Order ___ Financial Inability to Pay ___ SEP Conditional Offset</p> <p>Total Due to General Revenue: \$3,851</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: ___ Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Begin monitoring the disinfectant residual at representative locations throughout the distribution system at least once every seven days; and Begin maintaining records of water works operation and maintenance activities so that those records are available for review at the time of investigations and submit a copy of the well driller's log and cementing certificate for the well. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision No. 1. Within 30 days: <ol style="list-style-type: none"> Calibrate the Facility's well meter; Develop and begin maintaining an up-to-date plant operations manual that can be made available for operator review and reference; Ensure that customer service inspections are completed 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 unacceptable plumbing practices exist or after any material improvement, connections, or additions to the private plumbing facilities, including but not limited to, completing a customer service inspection at 9290 East Highway 84, 9230 East Highway 84, and 586 Beaver Lane; and Begin operating the Facility at all times under the direct supervision of a water works operator who holds a Class "D" or higher license. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision No. 3.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to complete Customer Service Inspection certificates 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 improvements, corrections, or additions to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j) and TCEQ Agreed Order No. 2008-0105-PWS-E, Ordering Provision No. 2.c.ii].</p> <p>7. Failed to operate the Facility by a licensed operator who holds a Class "D" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(A)].</p>		<p>5. Within 180 days, provide two or more service pumps with a total rated capacity of 2.0 gpm per connection.</p> <p>6. Within 195 days, submit written certification to demonstrate compliance with Ordering Provision No. 5.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-May-2009	Screening	10-Jun-2009	EPA Due	31-Aug-2009
	PCW	24-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Moore's Water System of Beaver Lake, Inc.
Reg. Ent. Ref. No.	RN102682291
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37771	No. of Violations	7
Docket No.	2009-0917-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tel Croston
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,510
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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	39.0% Enhancement	Subtotals 2, 3, & 7	\$978
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Notes: Enhancement is due to one prior Notice of Violation ("NOV") with the same or similar violations as those in the current enforcement action, seven NOV's with dissimilar violations and one agreed final enforcement order with a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$546
 Approx. Cost of Compliance: \$2,111
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,488
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.4%	Adjustment	\$363
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$3,851
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,851
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$3,851
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Screening Date 10-Jun-2009

Docket No. 2009-0917-PWS-E

PCW

Respondent Moore's Water System of Beaver Lake, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37771

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102682291

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

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)	1	5%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 39%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to one prior Notice of Violation ("NOV") with the same or similar violations as those in the current enforcement action, seven NOVs with dissimilar violations and one agreed final enforcement order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date 10-Jun-2009 Docket No. 2009-0917-PWS-E PCW

Respondent Moore's Water System of Beaver Lake, Inc. Policy Revision 2 (September 2002)

Case ID No. 37771 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102682291

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(4)(A)

Violation Description Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days. Specifically, at the time of the investigation, it was documented that the disinfectant residual was being monitored only once a month instead of once every seven days.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to monitor the disinfectant residual at least once every seven days could result in customers of the Facility being exposed to significant amounts of undetected contaminants which would exceed level protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 42 Number of violation days

mark only one with an x	daily		Violation Base Penalty
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		

\$500

Two monthly events are recommended from the date of the investigation, April 29, 2009, to the date of screening, June 10, 2009.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
		Before NOV	NOV to EDP/PP/ Settlement Offer
Extraordinary			
Ordinary			
N/A	x	(mark with x)	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$6 Violation Final Penalty Total \$767

This violation Final Assessed Penalty (adjusted for limits) \$767

Economic Benefit Worksheet

Respondent Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$50	29-Apr-2009	10-Jun-2009	0.12	\$0	\$6	\$6
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount necessary (\$10 per week) to ensure that the disinfectant residual is monitored at least once every seven days, calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$50

TOTAL \$6

Screening Date 10-Jun-2009 **Docket No.** 2009-0917-PWS-E **PCW**
Respondent Moore's Water System of Beaver Lake, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37771 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102682291
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.46(s)(1)
Violation Description Failed to calibrate all well meters at least once every three years. Specifically, at the time of the investigation, it was documented that the well meter at Well No. 1 had not been calibrated in the past three years.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent 0%

Matrix Notes Failing to have the well meter properly calibrated could lead to inaccurate or unavailable water usage and production data which could expose customers of the Facility to an insignificant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 42 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$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 for this violation.

Violation Subtotal \$50

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

Estimated EB Amount \$239 **Violation Final Penalty Total** \$77

This violation Final Assessed Penalty (adjusted for limits) \$77

Economic Benefit Worksheet

Respondent Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	29-Apr-2006	29-Apr-2009	3.92	\$39	\$200	\$239
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to properly calibrate the well meter for Well No. 1, calculated three years prior to the investigation date.

Approx. Cost of Compliance \$200

TOTAL \$239

Screening Date 10-Jun-2009 **Docket No.** 2009-0917-PWS-E **PCW**
Respondent Moore's Water System of Beaver Lake, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37771 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102682291
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision 2.a

Violation Description
 Failed to provide Facility records and make them accessible for Commission review during inspections. Specifically, at the time of the investigation, the well drillers log and the cementing certificate were not available for review.

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	Harm			Percent
		Major	Moderate	Minor	
				x	1%

Matrix Notes
 Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 261 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$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 for this violation.

Violation Subtotal \$10

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

Estimated EB Amount \$7

Violation Final Penalty Total \$15

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	22-Sep-2008	1-Feb-2010	1.36	\$7	n/a	\$7
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to create a record-keeping system and begin maintaining all Facility records, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0105-PWS-E to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$7

Screening Date 10-Jun-2009 **Docket No.** 2009-0917-PWS-E **PCW**
Respondent Moore's Water System of Beaver Lake, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37771 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102682291
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number

30 Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health and Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision 2.e

Violation Description Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the Facility has 89 service connections and must provide a total pump capacity of 178 gpm. The Facility provided a service pump capacity of 160 gpm, which is a ten percent deficiency.

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"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input 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 Without sufficient total service pump capacity, customers of the Facility could experience shortages and be exposed to an insignificant amount of contaminants that do not exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

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 Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	22-Sep-2008	1-Aug-2010	1.86	\$6	\$124	\$130
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount necessary to increase the service pump capacity to 2.0 gpm per connection with two pumps, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0105-PWS-E to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$130

Screening Date 10-Jun-2009 **Docket No.** 2009-0917-PWS-E **PCW**
Respondent Moore's Water System of Beaver Lake, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37771 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102682291
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 290.42(l) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision 2.c.i

Violation Description Failed to develop and maintain an up-to-date plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was documented that the Facility did not have a plant operations manual.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential				0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			
					10%

Matrix Notes Failed to comply with 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 9 261 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$900

Eight monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0105-PWS-E, September 22, 2008, to the date of screening, June 10, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$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 for this violation.

Violation Subtotal \$900

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

Estimated EB Amount \$14 **Violation Final Penalty Total** \$1,381

This violation Final Assessed Penalty (adjusted for limits) \$1,381

Economic Benefit Worksheet

Respondent Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$200	22-Sep-2008	1-Mar-2010	1.44	\$14	n/a	\$14

Notes for DELAYED costs

The delayed costs include the amount to prepare and maintain a plant operations manual, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0105-PWS-E to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$200

TOTAL \$14

Screening Date	10-Jun-2009	Docket No.	2009-0917-PWS-E	PCW
Respondent	Moore's Water System of Beaver Lake, Inc.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	37771	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN102682291			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Tel Croston			

Violation Number

Rule Cite(s)

Violation Description

Failed to complete Customer Service Inspection certificates 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 improvements, corrections, or additions to the private water distribution facilities. Specifically, at the time of the investigation, it was documented that customer service inspections were not conducted at 9290 East Highway 84, 9230 East Highway 84 and 586 Beaver Lane.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Failed to comply with 100% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Eight monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0105-PWS-E, September 22, 2008, to the date of screening, June 10, 2009.

Good Faith Efforts to Comply Reduction

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

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 Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$450	22-Sep-2008	1-Mar-2010	1.44	\$32	n/a	\$32

Notes for DELAYED costs Estimated cost to conduct customer service inspections and complete a customer service inspection certificate for all new construction, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0105-PWS-E to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$450

TOTAL \$32

Screening Date 10-Jun-2009 **Docket No.** 2009-0917-PWS-E **PCW**
Respondent Moore's Water System of Beaver Lake, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 37771 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102682291
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number 7
Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(A)
Violation Description Failed to operate the Facility by a licensed operator who holds a class "D" or higher license. Specifically, at the time of the investigation, it was documented that the Facility's operator was operating with a license that expired on March 1, 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failed to operate the Facility under the direct supervision of an appropriately licensed water works operator may result in poor plant operation and expose the public to a significant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

	1	42	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, April 29, 2009 to the date of screening, June 10, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$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 for this violation.

Violation Subtotal \$100

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

Estimated EB Amount \$117 **Violation Final Penalty Total** \$153

This violation Final Assessed Penalty (adjusted for limits) \$153

Economic Benefit Worksheet

Respondent Moore's Water System of Beaver Lake, Inc.

Case ID No. 37771

Reg. Ent. Reference No. RN102682291

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$111	29-Apr-2009	10-Jun-2009	1.03	\$6	\$111	\$117
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to obtain a valid public water system operator license, calculated from the date the investigation to the screening date.

Approx. Cost of Compliance \$111

TOTAL \$117

Compliance History Report

Customer/Respondent/Owner-Operator: CN601361736 Moore's Water System of Beaver Lake, Inc. Classification: Rating:

Regulated Entity: RN102682291 MOORES WATER SYSTEM Classification: Site

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 155012

Location: 476 BEAVER LANE, MCLELLAN COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: May 29, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 28, 2004 to May 29, 2009

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

Name: Tel Croston Phone: (512) 239 - 5717

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 judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 09/22/2008 ADMINORDER 2008-0105-PWS-E
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)
5A THSC Chapter 341, SubChapter A 341.0315(c)
- Description: Failure to provide an adequate service pumping capacity.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
- Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
- Description: Failure to complete customer service inspection certificates.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
- Description: Failure to provide a plant operations manual.
- 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 | 12/06/2006 | (518238) |
| 2 | 02/28/2007 | (700988) |
| 3 | 05/21/2007 | (652433) |
| 4 | 08/10/2007 | (652722) |
| 5 | 08/10/2007 | (701068) |
| 6 | 10/10/2007 | (596997) |
| 7 | 11/12/2007 | (652995) |
| 8 | 11/12/2007 | (701076) |
| 9 | 11/27/2007 | (600426) |
| 10 | 04/10/2008 | (670496) |
| 11 | 04/25/2008 | (681035) |
| 12 | 05/09/2008 | (655009) |
| 13 | 08/28/2008 | (702182) |
| 14 | 09/02/2008 | (701058) |
| 15 | 05/20/2009 | (742561) |

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

1	Date:	12/08/2006 (518238)	CN601361736		
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii) 5A THSC Chapter 341, SubChapter A 341.0315(c)			
	Description:	Failure to provide an adequate service pumping capacity.			
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)			
	Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.			
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(j)			
	Description:	Failure to complete customer service inspection certificates.			
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)			
	Description:	Failure to employ a licensed water operator.			
	Self Report?	NO		Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)			
	Description:	Failure to provide a plant operations manual.			
2	Date:	02/28/2007 (700988)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) 5A THSC Chapter 341, SubChapter A 341.0315(c)			
	Description:	Violated the maximum contaminant level for arsenic during the fourth quarter of 2006.			
3	Date:	05/21/2007 (652433)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) 5A THSC Chapter 341, SubChapter A 341.0315(c)			
	Description:	Violated the maximum contaminant level for arsenic during the first quarter of 2007.			
4	Date:	05/21/2007 (701058)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) 5A THSC Chapter 341, SubChapter A 341.0315(c)			
	Description:	Violated the maximum contaminant level for arsenic during the first quarter of 2007.			
5	Date:	11/12/2007 (652995)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)			
	Description:	ARSENIC			
6	Date:	11/12/2007 (701076)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) 5A THSC Chapter 341, SubChapter A 341.0315(c)			
	Description:	Violated the maximum contaminant level for arsenic during the third quarter of 2007.			
7	Date:	04/10/2008 (670496)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(f)(4)			
	Description:	BACT - MONITORING/REPORTING VIOLATIONS			
8	Date:	04/25/2008 (681035)	CN601361736		
	Self Report?	NO		Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(f)(4)			
	Description:	BACT - MONITORING/REPORTING VIOLATIONS			

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
MOORE'S WATER SYSTEM OF	§	
BEAVER LAKE, INC.;	§	ENVIRONMENTAL QUALITY
RN102682291	§	

DEFAULT ORDER
DOCKET NO. 2009-0917-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Moore's Water System of Beaver Lake, Inc. ("Moore's Water System").

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

FINDINGS OF FACT

1. Moore's Water System owns and operates a public water supply located at 476 Beaver Lane, Waco, McLennan County, Texas (the "Facility").
2. The Facility provides water for human consumption, has approximately 89 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).
3. During an investigation conducted on April 29, 2009, a TCEQ Waco Regional Office investigator documented that Moore's Water System:
 - a. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days. Specifically, at the time of the investigation, it was documented that the disinfectant residual was being monitored only once a month instead of once every seven days.

- b. Failed to calibrate all well meters at least once every three years. Specifically, at the time of the investigation, it was documented that the well meter at Well No. 1 had not been calibrated in the past three years.
 - c. Failed to provide Facility records and make them accessible for Commission review during inspections. Specifically, at the time of the investigation, the well drillers log and the cementing certificate were not available for review.
 - d. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the Facility has 89 service connections and must provide a total pump capacity of 178 gpm. The Facility provided a service pump capacity of 160 gpm, which is a ten percent deficiency.
 - e. Failed to develop and maintain an up-to-date plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was documented that the Facility did not have a plant operations manual.
 - f. Failed to complete Customer Service Inspection certificates 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 improvements, corrections, or additions to the private water distribution facilities. Specifically, at the time of the investigation, it was documented that customer service inspections were not conducted at 9290 East Highway 84, 9230 East Highway 84, and 586 Beaver Lane.
 - g. Failed to operate the Facility by a licensed operator who holds a Class "D" or higher license. Specifically, at the time of the investigation, it was documented that the Facility's operator was operating with a license that expired on March 1, 2009.
4. Moore's Water System received notice of the violations on or about May 25, 2009.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Moore's Water System of Beaver Lake, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on October 14, 2009.

6. By letter dated October 14, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Moore's Water System with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Moore's Water System received notice of the EDPRP.
7. More than 20 days have elapsed since Moore's Water System received notice of the EDPRP, provided by the Executive Director. Moore's Water System failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Moore's Water System is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Moore's Water System failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A).
3. As evidenced by Finding of Fact No. 3.b., Moore's Water System failed to calibrate all well meters at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
4. As evidenced by Finding of Fact No. 3.c., Moore's Water System failed to provide Facility records and make them accessible for Commission review during inspections, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision No. 2.a.
5. As evidenced by Finding of Fact No. 3.d., Moore's Water System failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision No. 2.e.
6. As evidenced by Finding of Fact No. 3.e., Moore's Water System failed to develop and maintain an up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l) and TCEQ Agreed Order Docket No. 2008-0105-PWS-E, Ordering Provision No. 2.c.i.
7. As evidenced by Finding of Fact No. 3.f., Moore's Water System failed to complete Customer Service Inspection certificates 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

improvements, corrections, or additions to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j) and TCEQ Agreed Order No. 2008-0105-PWS-E, Ordering Provision No. 2.c.ii.

8. As evidenced by Finding of Fact No. 3.g., Moore's Water System failed to operate the Facility by a licensed operator who holds a Class "D" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(A).
9. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Moore's Water System with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
10. As evidenced by Finding of Fact No. 7, Moore's Water System failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Moore's Water System and assess the penalty recommended by the Executive Director.
11. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Moore's Water System for violations of 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.
12. An administrative penalty in the amount of three thousand eight hundred fifty-one dollars (\$3,851.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Moore's Water System is assessed an administrative penalty in the amount of three thousand eight hundred fifty-one dollars (\$3,851.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Moore's Water System's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.

All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Moore's Water System of Beaver Lake, Inc.; Docket No. 2009-0917-PWS-E" to:

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

2. Moore's Water System shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Moore's Water System shall:
 - i. Begin monitoring the disinfectant residual at representative locations throughout the distribution system at least once every seven days, as required by 30 TEX. ADMIN. CODE § 290.110; and
 - ii. Begin maintaining records of water works operation and maintenance activities so that those records are available for review at the time of investigations and submit a copy of the well driller's log and cementing certificate for the well to the address in Ordering Provision No. 2.g., as required by 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 15 days after the effective date of this Order, Moore's Water System shall submit written certification as described in Ordering Provision No. 2.g., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 30 days after the effective date of this Order, Moore's Water System shall:
 - i. Calibrate the Facility's well meter, as required by 30 TEX. ADMIN. CODE § 290.46.
 - ii. Develop and begin maintaining an up-to-date plant operations manual that can be made available for operator review and reference, as required by 30 TEX. ADMIN. CODE § 290.46.

- iii. Ensure that customer service inspections are completed 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 unacceptable plumbing practices exist or after any material improvement, connections, or additions to the private plumbing facilities, including but not limited to, completing a customer service inspection at 9290 East Highway 84, 9230 East Highway 84, and 586 Beaver Lane, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - iv. Begin operating the Facility at all times under the direct supervision of a water works operator who holds a Class "D" or higher license, as required by 30 TEX. ADMIN. CODE § 290.46.
- d. Within 45 days after the effective date of this Order, Moore's Water System shall submit written certification as described in Ordering Provision No. 2.g., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.
 - e. Within 180 days after the effective date of this Order, Moore's Water System shall provide two or more service pumps with a total rated capacity of 2.0 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
 - f. Within 195 days after the effective date of this Order, Moore's Water System shall submit written certification as described in Ordering Provision No. 2.g., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e.
 - g. The certifications required by Ordering Provision Nos. 2.b., 2.d., and 2.f. shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Moore's Water System shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

with a copy to:

Frank Burlison, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Moore's Water System. Moore's Water System is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Moore's Water System shall be made in writing to the Executive Director. Extensions are not effective until Moore's Water System receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Moore's Water System if the Executive Director determines that Moore's Water System has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Stephanie J. Frazee. 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 behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Moore’s Water System of Beaver Lake, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on October 14, 2009.

The EDPRP was mailed to Moore’s Water System at its last known address on October 14, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Moore’s Water System received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Moore’s Water System received notice of the EDPRP. Moore’s Water System failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Stephanie J. Frazee, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, 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 3rd day of December, A.D., 2009.



Notary Signature

