

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1260-PWS-E **TCEQ ID:** RN101216257 **CASE NO.:** 38096
RESPONDENT NAME: Fort Gates Water Supply Corporation

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Fort Gates WSC, 1645 Farm-to-Market Road 107, Coryell 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.</p> <p>INTERESTED PARTIES: No one other than the BD and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 4, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Dewey Jones, President, Fort Gates Water Supply Corporation, 103 Gateway Circle, Gatesville, Texas 76528 Ms. Amy Veazey, Registered Agent, Fort Gates Water Supply Corporation, 103 Gateway Circle, Gatesville, Texas 76528 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 24, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 7, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$750</p> <p>Total Deferred: \$150 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes the Respondent is in the process of evaluating funding options for the generator to provide emergency power to the Facility.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, provide emergency power that will deliver water at a minimum rate of 0.35 gpm per connection; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID 0500017

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ DATES	Assigned	20-Jul-2009	Screening	29-Jul-2009	EPA Due	
	PCW	5-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Fort Gates Water Supply Corporation		
Reg. Ent. Ref. No.	RN101216257		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38098	No. of Violations	1
Docket No.	2009-1260-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Amanda Henry
		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		\$500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	50.0% Enhancement	Subtotals 2, 3, & 7	\$250
Notes	Penalty enhancement is due to one Notice of Violation ("NOV") that contains a violation that is the same as the one contained in the current enforcement action and one final agreed order containing a denial of liability and one final agreed order without denial of liability.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,426	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$17,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$750
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$750
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$750
DEFERRAL	20.0% Reduction	Adjustment	-\$150
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$600

Screening Date 29-Jul-2009

Docket No. 2009-1260-PWS-E

PCW

Respondent Fort Gates Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38096

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101216257

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 50%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Penalty enhancement is due to one Notice of Violation ("NOV") that contains a violation that is the same as the one contained in the current enforcement action and one final agreed order containing a denial of liability and one final agreed order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date 29-Jul-2009	Docket No. 2009-1280-PWS-E	PCW		
Respondent Fort Gates Water Supply Corporation	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 38096	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN101216257				
Media [Statute] Public Water Supply				
Enf. Coordinator Amanda Henry				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(D)(v) and Tex. Health & Safety Code § 341.0315(c)"/>			
Violation Description	<input 250="" a="" an="" and="" as="" at="" backup="" connection="" connections."="" documented="" elevated="" emergency="" event="" facilities="" failed="" for="" generator,="" gpm")="" have="" in="" is="" it="" loss="" more="" no="" normal="" of="" or="" per="" power="" provide="" record="" required="" respondent="" review,="" serves="" service="" source,="" specifically,="" storage="" such="" supply.="" that="" the="" time="" to="" type="text" value="Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute (" was="" which=""/>			
Base Penalty		<input type="text" value="\$1,000"/>		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Percent			<input type="text" value="25%"/>	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="text"/>			<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Without any emergency power, customers of the Facility could experience water outages and the Facility's ability to provide a safe and reliable water supply could be compromised."/>			
Adjustment			<input type="text" value="\$750"/>	
			<input type="text" value="\$250"/>	
Violation Events				
Number of Violation Events		<input type="text" value="2"/>	<input type="text" value="35"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	weekly	<input type="text"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<input type="text" value="Two monthly events are recommended, calculated from the date of the record review, June 24, 2009, to the date of screening, July 29, 2009."/>			<input type="text" value="\$500"/>	
Good Faith Efforts to Comply			<input type="text" value="0.0%"/> Reduction	
			<input type="text" value="\$0"/>	
			<input type="text" value="Before NOV"/> <input type="text" value="NOV to EDRPP/Settlement Offer"/>	
Extraordinary	<input type="text"/>	<input type="text"/>	Violation Subtotal	
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="checkbox"/>	<input type="text" value="(mark with x)"/>		
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal			<input type="text" value="\$500"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$1,425"/>	Violation Final Penalty Total	
			<input type="text" value="\$750"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$750"/>	

Economic Benefit Worksheet

Respondent Fort Gates Water Supply Corporation
Case ID No. 38096
Reg. Ent. Reference No. RN101216257
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$17,000	20-Apr-2009	1-Jul-2010	1.20	\$68	\$1,357	\$1,425
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

The delayed costs include the amount to install an emergency power generator, calculated from the date the violation was first documented 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

\$17,000

TOTAL

\$1,425

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600658629 Fort Gates Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101216257 FORT GATES WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0500017 0500017
Location:	1645 FARM-TO-MARKET ROAD 107, CORYELL COUNTY, TX		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	July 29, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 29, 2004 to July 29, 2009		

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

Name: Amanda Henry Phone: 713-767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/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: 03/03/2005 ADMINORDER 2004-0925-PWS-E
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
- 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(u)
- Description: Failure to test public water system wells.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
- Description: Failure to plug an abandoned well.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
- Description: Failure to provide a flow measuring device for each well.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)
- Description: Failure to properly install air release devices in the distribution system.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
- Description: Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
30 TAC Chapter 290, SubChapter D 290.43(e)
- Description: Failure to provide an intruder-resistant fence in order to protect the well, pressure tanks, and ground storage tanks.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
- Rqmt Prov: 2004-0925-PWS-E OP 2.a.ii. ORDER
- Description: Failed to provide an up-to-date distribution map of the system.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to provide a sanitary easement at the time of this investigation.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)
 Description: Failure to provide a well casing eighteen inches above the ground surface.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)
 Description: Failure to properly install the well blow-off line.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)
 Description: Failure to post a legible sign at the water plant.

Effective Date: 03/12/2009 ADMINORDER 2008-1037-PWS-E

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Rqmt Prov: 2004-0925-PWS-E OP 2.a.ii. ORDER
 Description: Failed to provide an up-to-date distribution map of the system.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: Failed to provide an intruder-resistant fence.

Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(vi)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
 Description: Failed to provide water system records to Commission personnel at the time of the investigation.

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	05/24/2006	(467351)
2	06/10/2008	(638767)
3	07/25/2008	(676113)
4	04/22/2009	(743154)
5	07/16/2009	(759794)

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

Date:	04/23/2009	(743154)	CN600658629
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v)		
Description:	Failure to provide emergency power.		

F. Environmental audits.
 N/A

G. Type of environmental management systems (EMSs).
 N/A

H. Voluntary on-site compliance assessment dates.
 N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FORT GATES WATER SUPPLY
CORPORATION
RN101216257

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1260-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Fort Gates Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 1645 Farm-to-Market Road 107, Coryell County, Texas (the "Facility") that has approximately 947 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 12, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Dollars (\$600) of the administrative penalty and One Hundred Fifty Dollars (\$150) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full

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

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on June 24, 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Fort Gates Water Supply Corporation, Docket No. 2009-1260-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order, provide emergency power that will deliver water at a minimum of 0.35 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave, Ste. 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

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

Fort Gates Water Supply Corporation
DOCKET NO. 2009-1260-PWS-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

J. S. S. S.
For the Executive Director

12/11/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Kearney
Signature

10-26-09
Date

Amy Veazey
Name (Printed or typed)
Authorized Representative of
Fort Gates Water Supply Corporation

accounting manager
Title

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

