

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-2061-PWS-E TCEQ ID: RN101231256 CASE NO.: 38887
RESPONDENT NAME: Moore Station 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: Moore Station WSC, located on Farm-to-Market Road 314 north of Farm-to-Market Road 315, Henderson County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Charles Anderson, President, Moore Station Water Supply Corporation, 3429 Farm-to-Market Road 314 South, Larue, Texas 75770 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 22, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 17, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide an elevated storage capacity of 100 gallons per connection for Pressure Plane No. 1 and Pressure Plane No. 2 [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].</p>	<p>Total Assessed: \$715</p> <p>Total Deferred: \$143 <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: \$572</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>Ordering Provisions:</p> <p>The Order will require the Respondent:</p> <p>a) Within 30 days after the effective of this Agreed Order, update the chemical and microbiological monitoring plan for the Facility to describe the sampling frequency, and specify the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements;</p> <p>b) Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.d, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a;</p> <p>c) Within 180 days after the effective date of this Agreed Order, provide an elevated storage capacity of 100 gallons per connection for Pressure Plane Nos. 1 and 2; and</p> <p>d) 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 c.</p>

Additional ID No(s). 1070055



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Dec-2009	Screening	21-Dec-2009	EPA Due	
	PCW	21-Dec-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Moore Station Water Supply Corporation		
Reg. Ent. Ref. No.	RN101231256		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38887	No. of Violations	3
Docket No.	2009-2061-PWS-E	Order Type	1860
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epfanio Villarreal
		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	\$650
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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	10.0% Enhancement	Subtotals 2, 3, & 7	\$65
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Notes: The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement action.

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	\$4,222
Approx. Cost of Compliance	\$60,549

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$715
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$715
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$715
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DEFERRAL	20.0% Reduction	Adjustment	-\$143
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$572
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Screening Date 21-Dec-2009

Docket No. 2009-2061-PWS-E

PCW

Respondent Moore Station Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101231258

Media [Statute] Public Water Supply

Enf. Coordinator Eplfanio Villarreal

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)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 10%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as or similar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 21-Dec-2009

Docket No. 2009-2061-PWS-E

PCW

Respondent Moore Station Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38887

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101231256

Media [Statute] Public Water Supply

Enf. Coordinator Eplfanio Villarreal

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide an elevated storage capacity of 100 gallons per connection for Pressure Plane No. 1. With 303 service connections, the Facility must provide a minimum elevated storage tank capacity of 30,300 gallons. However, it was noted that the Facility currently provides 14,814 gallons of elevated storage tank capacity, which is a 51% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failing to provide adequate elevated storage tank capacity, may result in low pressure problems and back siphonage thereby exposing customers to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

60 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended from the date of the investigation, October 22, 2009, to the date of screening, December 21, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/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

Estimated EB Amount \$2,784

Statutory Limit Test

Violation Final Penalty Total \$550

This violation Final Assessed Penalty (adjusted for limits) \$550

Economic Benefit Worksheet

Respondent Moore Station Water Supply Corporation
Case ID No. 38887
Reg. Ent. Reference No. RN101231256
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$33,295	22-Oct-2009	1-Jan-2011	1.19	\$133	\$2,651	\$2,784
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 cost includes the estimated amount to provide an elevated storage capacity of a minimum of 100 gallons per connection for Pressure Plane No. 1, calculated from the date of the investigation 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

\$33,295

TOTAL

\$2,784

Screening Date 21-Dec-2009

Docket No. 2009-2061-PWS-E

PCW

Respondent Moore Station Water Supply Corporallon

Policy Revision 2 (September 2002)

Case ID No. 38887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101231256

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number

2

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide an elevated storage capacity of 100 gallons per connection for Pressure Plane No. 2. With 303 service connections, the Facility must provide a minimum elevated tank capacity of 30,300 gallons. However, it was noted that the Facility currently provides 22,321 gallons of elevated storage tank capacity, which is a 26% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failing to provide adequate elevated storage tank capacity, may result in low pressure problems and back siphonage thereby exposing customers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 60

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, October 22, 2009, to the date of screening, December 21, 2009.

Good Faith Efforts to Comply

	Reduction	
	Before NOV	NOV to EDRP/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 \$1,434

Violation Final Penalty Total \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

Economic Benefit Worksheet

Respondent Moore Station Water Supply Corporation
Case ID No. 38887
Reg. Ent. Reference No. RN101231258
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$17,154	22-Oct-2009	1-Jan-2011	1.19	\$68	\$1,366	\$1,434
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 cost includes the estimated amount to provide an elevated storage capacity of 100 gallons per connection for Pressure Plane No. 2, calculated from the date of the investigation 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

\$17,154

TOTAL

\$1,434

Screening Date 21-Dec-2009

Docket No. 2009-2061-PWS-E

PCW

Respondent Moore Station Water Supply Corporation

Policy Revision 2 (September 24, 2008)

Case ID No. 38887

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101231256

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description

Failed to provide a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, at the time of the investigation, it was documented that sampling frequencies, analytical procedures, and laboratories used for sampling were not included in the monitoring plan.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes

30% to 70% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

60 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction 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 \$4

Violation Final Penalty Total \$55

This violation Final Assessed Penalty (adjusted for limits) \$55

Economic Benefit Worksheet

Respondent Moore Station Water Supply Corporation
Case ID No. 38887
Reg. Ent. Reference No. RN101231256
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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-Oct-2009	1-Aug-2010	0.78	\$4	n/a	\$4
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 cost includes the estimated amount to update the chemical and microbiological monitoring plan to include sampling frequencies, analytical procedures, and laboratories used for sampling, calculated from the date of the investigation 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

\$4

Compliance History Report

Customer/Respondent/Owner-Operator: CN600670921 Moore Station Water Supply Corporation Classification: Rating:

Regulated Entity: RN101231256 MOORE STATION WSC Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1070055
 WATER LICENSING LICENSE 1070055

Location: LOCATED ON FM 314 N OF FM 315 IN HENDERSON CO, TX

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: December 21, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 21, 2004 to December 21, 2009

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

Name: Epi Villarreal Phone: 361-825-3425

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
- 6.

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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 | 01/03/2008 | (612504) |
| 2 | 10/07/2008 | (689584) |
| 3 | 12/17/2009 | (784184) |

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

- | | | |
|--------------|--|--------------------------|
| Date: | 01/07/2008 (612504) | CN600670921 |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(l) | |
| Description: | Failure to compile and maintain a current plant operations and maintenance manual. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(c)(8) | |
| Description: | Failure to maintain the protective coating on the interior of standpipe #2. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(j)(2) | |
| Description: | Failure to perform customer service inspection on potential contamination hazard. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(m) | |
| Description: | Failure to maintain certain facility items in good working condition. | |
| Self Report? | NO | Classification: Minor |

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: Failure to calibrate well meters at least once every three years.
 Self Report? NO Classification: Minor

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

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)
 5A THSC Chapter 341, SubChapter A 341.0315
 Description: Failure to provide a minimum production capacity of 0.6 GPM per connection for plant #1.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to provide this agency's minimum elevated storage capacity of 100 gallons per connection for pressure planes 1 and 2.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)
 Description: Failure to submit a plan upon reaching 85% production capacity for pressure plane #1.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20
 Description: Failure to adopt a drought contingency plan.
 Date: 10/13/2008 (689584) CN600670921
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to compile and maintain a current plant operations and maintenance manual.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
 Description: Failure to maintain the protective coating on the interior of standpipe #2.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)(2)
 Description: Failure to perform customer service inspection on potential contamination hazard.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain certain facility items in good working condition.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: Failure to calibrate well meters at least once every three years.
 Self Report? NO Classification: Minor

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

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)
 5A THSC Chapter 341, SubChapter A 341.0315
 Description: Failure to provide a minimum production capacity of 0.6 GPM per connection for plant #1.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to provide this agency's minimum elevated storage capacity of 100 gallons per connection for pressure planes 1 and 2.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)
 Description: Failure to submit a plan upon reaching 85% production capacity for pressure plane #1.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20
 Description: Failure to adopt a drought contingency plan.
 Self Report? NO Classification: Minor

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
MOORE STATION WATER SUPPLY
CORPORATION
RN101231256**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-2061-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 Moore Station 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 on Farm-to-Market Road 314 north of Farm-to-Market Road 315, Henderson County, Texas (the "Facility") that has approximately 606 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 December 22, 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 Fifteen Dollars (\$715) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Seventy-Two Dollars (\$572) of the administrative penalty and One Hundred Forty-Three Dollars (\$143) 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. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide an elevated storage capacity of 100 gallons per connection for Pressure Plane No. 1 and Pressure Plane No. 2, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on October 22, 2009.
2. Failed to provide a complete up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b), as documented during an investigation conducted on October 22, 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: Moore Station Water Supply Corporation, Docket No. 2009-2061-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective of this Agreed Order, update the chemical and microbiological monitoring plan for the Facility to describe the sampling frequency, and specify the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in accordance with 30 TEX. ADMIN. CODE § 290.121;
 - b. Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.d, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a;
 - c. Within 180 days after the effective date of this Agreed Order, provide an elevated storage capacity of 100 gallons per connection for Pressure Plane Nos. 1 and 2, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - d. 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 2.c. 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Jean Szollier
For the Executive Director

4/23/2010
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.

Charles Anderson
Signature

2-23-2010
Date

CHARLES ANDERSON
Name (Printed or typed)
Authorized Representative of
Moore Station Water Supply Corporation

PRESIDENT
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.

