

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-2026-MLM-E **TCEQ ID:** RN101451581 **CASE NO.:** 38858
RESPONDENT NAME: Three Community 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 checked="" 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 checked="" type="checkbox"/> PUBLIC WATER UTILITIES
<p>SITE WHERE VIOLATION(S) OCCURRED: Located on County Road 3405 south of Farm-To-Market Road 3204 in 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 May 10, 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, R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Anita Sue Robertson, Registered Agent, Three Community Water Supply Corporation, 18870 Wyatt Road, Brownsboro, Texas 75756 Mr. Robbie Thorne, President, Three Community Water Supply Corporation, 18870 Wyatt Road, Brownsboro, Texas 75756 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 20, 2009</p> <p>Date of NOE Relating to this Case: December 11, 2009</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to provide a sanitary control easement that covers the land within 150 feet of Well No. 1 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>2) 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>3) Failure to provide two or more service pumps having a total capacity of 2.0 gpm per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>4) Failure to provide an 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>5) Failure to provide an up-to-date map of the distribution system [30 TEX. ADMIN. CODE § 290.46(n)(2)].</p> <p>6) Failure to calibrate the Facility's two</p>	<p>Total Assessed: \$996</p> <p>Total Deferred: \$199 <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: \$797</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 to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit and begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility 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; and</p> <p>ii. Submit and begin maintaining an up-to-date map of the distribution system so that lines, flush valves, and fire hydrants may be easily located during emergencies.</p> <p>b. Within 45 days after the effective of this Agreed Order, submit written certification as described in Ordering Provision h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 60 days after the effective date of this Agreed Order, calibrate the flow meters on the Facility's wells;</p> <p>d. Within 75 days after the effective of this Agreed Order, submit written certification as described in Ordering Provision h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c;</p> <p>e. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Obtain a sanitary control easement for Well No. 1 or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39; and</p> <p>ii. Submit a planning report to the Executive Director that clearly explains how the retail public utility will provide the expected service demands to the</p>

<p>well meters at least once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].</p> <p>7) Failure to submit a planning report to the Executive Director that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the Facility has reached 85% of its capacity [30 TEX. ADMIN CODE § 291.93(3) and TEX. WATER CODE § 13.139(d)].</p>		<p>remaining areas within the boundaries of its certified areas.</p> <p>f. Within 105 days after the effective of this Agreed Order, submit written certification as described in Ordering Provision h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e;</p> <p>g. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Provide emergency power that will deliver water a minimum of 0.35 gpm per connection; and</p> <p>ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection.</p> <p>h. 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 g.</p>
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Additional ID No(s): PWS ID No. 1070071



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	14-Dec-2009	Screening	14-Dec-2009	EPA Due	
	PCW	14-Dec-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Three Community Water Supply Corporation
Reg. Ent. Ref. No.	RN101451581
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38868	No. of Violations	6
Docket No.	2009-2026-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Public Water Utilities	Enf. Coordinator	Epifanio 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	\$900
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$45
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Notes: The penalty enhancement is due to one prior Notice of Violation ("NOV") 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: \$2,727
 Approx. Cost of Compliance: \$29,971
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$945
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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 \$945

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$945
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DEFERRAL	20.0% Reduction	Adjustment	-\$189
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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	\$756
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Screening Date 14-Dec-2009

Docket No. 2009-2026-MLM-E

PCW

Respondent Three Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38858

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101451581

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio 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)	1	5%
	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 judgments 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) 5%

>> 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 one prior Notice of Violation ("NOV") containing violations that are the same as or similar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 14-Dec-2009

Docket No. 2009-2026-MLM-E

PCW

Respondent Three Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38858

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101451581

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to provide a sanitary control easement that covers the land within 150 feet of Well No. 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without a sanitary control easement, the source of water could be exposed to insignificant amounts of contaminants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

55 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

\$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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent: Three Community Water Supply Corporation
Case ID No.: 38858
Reg. Ent. Reference No.: RN101451581
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	20-Oct-2009	1-Oct-2010	0.98	\$1	\$13	\$13
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 cost includes the estimated amount to obtain a sanitary control easement for Well 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

\$200

TOTAL

\$13

Screening Date 14-Dec-2009

Docket No. 2009-2026-MLM-E

PCW

Respondent Three Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38858

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101451581

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(v) and Tex. Health & Safety Code § 341.0316(c)

Violation Description

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. Specifically, at the time of the investigation, it was documented that the Facility failed to provide an emergency power source, such as a back-up generator, which is required for a Facility that does not meet the elevated storage requirement and serves 250 or more service connections.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

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 \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 55

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

Violation Base Penalty \$500

Two monthly events are recommended from the date of the investigation, October 20, 2009, to the date of screening, December 14, 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

Statutory Limit Test

Estimated EB Amount \$2,352

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent Three Community Water Supply Corporation
Case ID No. 38858
Reg. Ent. Reference No. RN101451581
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
<i>No commas or \$</i>							

Delayed Costs

Equipment	\$28,000	20-Oct-2009	1-Jan-2011	1.20	\$112	\$2,240	\$2,352
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 cost includes the estimated amount to provide sufficient emergency power to deliver a minimum of 0.35 gpm per connection, 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

\$28,000

TOTAL

\$2,352

Screening Date 14-Dec-2009 **Docket No.** 2009-2026-MLM-E **PCW**
Respondent Three Community Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38858 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101451581
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(ii) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to provide two or more service pumps having a total capacity of 2.0 gpm per connection. Specifically, at the time of the investigation, it was documented that the Facility has 149 service connections and must provide a minimum service pump capacity of 298 gpm for the Rock Hill Pressure Plane. However, the Rock Hill Pressure Plane currently provides 200 gpm, which is a 33% 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 Without adequate service pump capacity, customers of the water system could experience water outages and backflow problems exposing customers to a significant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 55 Number of violation days

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

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, October 20, 2009, to the date of screening, December 14, 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$115

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent: Three Community Water Supply Corporation
Case ID No.: 38858
Reg. Ent. Reference No.: RN101451581
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
<small>No commas or \$.</small>							

Delayed Costs

Equipment	\$1,371	20-Oct-2009	1-Jan-2011	1.20	\$5	\$110	\$115
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 cost includes the estimated amount to install an additional pump to meet the total pump capacity of 2.0 gpm, 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

\$1,371

TOTAL

\$115

Screening Date 14-Dec-2009 **Docket No.** 2009-2026-MLM-E **PCW**
Respondent Three Community Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38858 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101451581
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal
Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)
Violation Description Failed to provide an 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.
Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential				

>> Programmatic Matrix

				Percent
Falsification	Major	Moderate	Minor	
	X			10%

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 55 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPR/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 \$4

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent: Three Community Water Supply Corporation.
Case ID No.: 38858
Reg. Ent. Reference No.: RN101451581
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
<i>No commas or \$</i>							

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	20-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 prepare and maintain a chemical and microbiological monitoring plan, 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

Screening Date 14-Dec-2009

Docket No: 2009-2026-MLM-E

PCW

Respondent Three Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No: 38858

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101451581

Media [Statute] Public Water Supply

Enf. Coordinator: Epifanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(2)

Violation Description Failed to provide an up-to-date map of the distribution system. Specifically, at the time of the investigation, it was documented that the map of the distribution system did not indicate where the flush valves and fire hydrants were located. Additionally, it was documented that the distribution lines were annotated on a piece of notebook paper.

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		5%

Matrix Notes 30% to 70% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 55 Number of violation days

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% reduction

\$0

	0.0% 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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$53

This violation Final Assessed Penalty (adjusted for limits) \$53

Economic Benefit Worksheet

Respondent: Three Community Water Supply Corporation

Case ID No.: 38858

Reg. Ent. Reference No.: RN101451581

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)	\$100	20-Oct-2009	1-Aug-2010	0.78	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the distribution map, 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

Screening Date 14-Dec-2009 **Docket No.** 2009-2026-MLM-E **PCW**
Respondent Three Community Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38858 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101451581
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation 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 checked="" type="checkbox"/>

Violation Base Penalty

Good Faith Efforts to Comply

	0.0% 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="checkbox"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount **Statutory Limit Test**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Three Community Water Supply Corporation
Case ID No.: 38858
Reg. Ent. Reference No.: RN101451581
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)				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)				0.00	\$0	\$0	\$0
Other (as needed)	-\$200	20-Oct-2006	20-Oct-2009	3.92	\$39	\$200	\$239

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meters, calculated for the three years prior to the investigation date.

Approx. Cost of Compliance

\$200

TOTAL

\$239



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	14-Dec-2009	Screening	14-Dec-2009	EPA Due	
	PCW	14-Dec-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Three Community Water Supply Corporation		
Reg. Ent. Ref. No.	RN101451581		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38858	No. of Violations	1
Docket No.	2009-2026-MLM-E	Order Type	1660
Media Program(s)	Public Water Utilities	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$50
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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	2.0% Enhancement	Subtotals 2, 3, & 7
		\$1

Notes: The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are not the same 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
Total EB Amounts	\$19		
Approx. Cost of Compliance	\$400		
		<small>*Capped at the Total EB \$ Amount</small>	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$51
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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: \$51

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$51
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DEFERRAL	20.0% Reduction	Adjustment	-\$10
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Reduces the Final Assessed Penalty by the Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$41
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Screening Date 14-Dec-2009

Docket No. 2009-2026-MLM-E

PCW

Respondent Three Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38858

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101451581

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio 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)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to one prior Notice of Violation ("NOV") containing violations that are not the same or similar to the violations in the current enforcement action.

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

Screening Date 14-Dec-2009

Docket No. 2009-2026-MLM-E

PCW

Respondent Three Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38858

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101451581

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 291.93(3) and Tex. Water Code § 13.139(d)

Violation Description

Failed to submit a planning report to the Executive Director that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the Facility has reached 85% of its capacity. Specifically, based on a review of the Facility's infrastructure, the Facility has exceeded 85% of its capacity requirement at the South Pressure Plane and the Rock Hill Pressure Plane.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$450

\$50

Violation Events

Number of Violation Events 1

55 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 NCV	NCV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Estimated EB Amount \$19

Statutory Limit Test

Violation Final Penalty Total \$51

This violation Final Assessed Penalty (adjusted for limits) \$51

Economic Benefit Worksheet

Respondent Three Community Water Supply Corporation
Case ID No. 38858
Reg. Ent. Reference No. RN101451581
Media Public Water Utilities
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$400	20-Oct-2009	1-Oct-2010	0.95	\$19	n/a	\$19
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare a report that addresses capacity issues for the South Pressure Plane and Rock Hill Pressure Plane, 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	\$400	TOTAL	\$19
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600627384 Three Community WSC	Classification:	Rating:
Regulated Entity:	RN101451581 THREE COMMUNITY WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1070071
	WATER LICENSING	LICENSE	1070071
Location:	LOCATED ON CR 3405 S OF FM 3204 IN HENDERSON CO, TX		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	December 14, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 14, 2004 to December 14, 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

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 04/06/2007 (555362)
- 2 12/10/2009 (783448)

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

- | | | |
|--------------|---|-----------------------|
| Date: | 04/09/2007 (555362) | CN600627384 |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | |
| Description: | Failure to obtain a sanitary control easement for well #1. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K) | |
| Description: | Failure to provide a suitable vent for well #1. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D) | |
| Description: | Failure to provide an adequate scale to determine the amount of chlorine used on a daily basis. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.42(I) | |
| Description: | Failure to compile a Plant Operations and Maintenance Manual for plant #1. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(d)(3) | |
| Description: | Failure to equip the compressor with an in-line filter. | |

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)		
Description:	Failure to provide ammonia bottle for chlorine leak detection.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v)		
Description:	Failure to provide an emergency power source.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)		
Description:	Failure to provide adequate service pump capacity.		

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
THREE COMMUNITY WATER
SUPPLY CORPORATION
RN101451581**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-2026-MLM-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 Three Community Water Supply Corporation ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13. 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 County Road 3405 south of Farm-To-Market Road 3204, in Henderson County, Texas (the "Facility") that has approximately 285 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Respondent owns and operates, in Texas and for compensation, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. The Respondent is not exempt from regulation under TEX. WATER CODE ch. 13 or the rules of the Commission.
3. 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.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 16, 2009.
5. 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.

6. An administrative penalty in the amount of Nine Hundred Ninety-Six Dollars (\$996) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Ninety-Seven Dollars (\$797) of the administrative penalty and One Hundred Ninety-Nine Dollars (\$199) 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.
7. 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.
8. 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.
9. 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.
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:

1. Failed to provide a sanitary control easement that covers the land within 150 feet of Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on October 20, 2009.
2. 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 an investigation conducted on October 20, 2009.
3. 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)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on October 20, 2009.
4. Failed to provide an 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 20, 2009.
5. Failed to provide an up-to-date map of the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2), as documented during an investigation conducted on October 20, 2009.
 6. Failed to calibrate the Facility's two well meters at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(i), as documented during an investigation conducted on October 20, 2009.
 7. Failed to submit a planning report to the Executive Director that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area when the Facility has reached 85% of its capacity, in violation of 30 TEX. ADMIN. CODE § 291.93(3) and TEX. WATER CODE § 13.139(d), as documented during an investigation conducted on October 20, 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 6 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: Three Community Water Supply Corporation, Docket No. 2009-2026-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit and begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility 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 accordance with 30 TEX. ADMIN. CODE § 290.121; and

- ii. Submit and begin maintaining an up-to-date map of the distribution system so that lines, flush valves, and fire hydrants may be easily located during emergencies, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- b. Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a;
- c. Within 60 days after the effective date of this Agreed Order, calibrate the flow meters on the Facility's wells, in accordance with 30 TEX. ADMIN. CODE § 290.46;
- d. Within 75 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.c;
- e. Within 90 days after the effective date of this Agreed Order:
 - i. Obtain a sanitary control easement for Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41 or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39; and
 - ii. Submit a planning report to the Executive Director that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certified areas, in accordance with 30 TEX. ADMIN. CODE § 291.93.

The planning report shall be submitted to:

Utilities and Districts Section
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- f. Within 105 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.h, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.e;
- g. Within 180 days after the effective date of this Agreed Order:
 - i. Provide emergency power that will deliver water a minimum of 0.35 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Provide two or more service pumps having a total capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.

- h. 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.g. 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. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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.

6. 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.
7. 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.
8. 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 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

John S. Sullivan
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.

Robbie Thorne
Signature

3-2-2010
Date

Robbie Thorne
Name (Printed or typed)
Authorized Representative of
Three Community 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.

