

Executive Summary – Enforcement Matter – Case No. 34461
T S RANCH & RETREAT, Inc.
RN104810619
Docket No. 2010-1069-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

5950 Farm-to-Market Road 920, Weatherford, Parker County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: October 14, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$910

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$910

Total Due to General Revenue: \$0

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**T S RANCH & RETREAT, Inc.
RN104810619
Docket No. 2010-1069-PWS-E**

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 25, 2010
Date(s) of NOV(s): October 6, 2006; March 31, 2010
Date(s) of NOE(s): June 11, 2010

Violation Information

1. Failed to design, fabricate, and erect all facilities for potable water storage in strict accordance with current American Water Works Association (“AWWA”) standards [30 TEX. ADMIN. CODE § 290.43(c) and TCEQ Agreed Order Docket No. 2007-1360-PWS-E, Ordering Provision No. 2.d.ii.].
2. Failed to submit as-built plans and specifications for the Facility that have been prepared by a licensed, professional engineer for Commission review and approval [30 TEX. ADMIN. CODE § 290.39(e) and (h)(1), TEX. HEALTH AND SAFETY CODE § 341.035(a), and TCEQ Agreed Order Docket No. 2007-1360-PWS-E, Ordering Provision No. 2.b.vi.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent submitted plans to TCEQ for a 3,000 gallon potable GST on or about March 4, 2011.

Technical Requirements:

1. Within 180 days:
 - a. Provide a GST designed, fabricated, and erected in strict accordance with current AWWA standards and submit a photograph of the GST prior to its installation or, obtain an exception to use a potable water storage tank made of polyurethane materials; and
 - b. Submit as-built plans and specifications for the Facility’s well, pressure tank, ground storage tank, service pump, and hypochlorination system that have been prepared by a licensed, professional engineer for Commission review and approval.
2. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning 1.a. and/or 1.b. within 30 days after the date of such letters, or by any other deadline specified in writing.
3. Within 195 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: February 9, 2011
Date Answer(s) Filed: March 15, 2011
SOAH Referral Date: April 19, 2011
Hearing Date(s):
Preliminary hearing: June 9, 2011 (waived)
Evidentiary hearing: September 13, 2011 (remanded September 8, 2011)
Settlement Date: September 2, 2011

**T S RANCH & RETREAT, Inc.
RN104810619
Docket No. 2010-1069-PWS-E**

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Andrea Linson, Water Enforcement Section, (512) 239- 1482

TCEQ Regional Contact: Sid Slocum, Dallas/Fort Worth Regional Office, (817) 588-5901

Respondent: Deborah McClellan, President, T S RANCH & RETREAT, Inc., 5950 F.M. Rd. 920,
Weatherford, Texas 76088

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Jun-2010			
	PCW	14-Jun-2010	Screening	14-Jun-2010	EPA Due 30-Nov-2009

RESPONDENT/FACILITY INFORMATION					
Respondent	T S RANCH & RETREAT, Inc.				
Reg. Ent. Ref. No.	RN104810619				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	34461	No. of Violations	2		
Docket No.	2010-1069-PWS-E	Order Type	Findings		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodur		
		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	\$700
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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	30.0% Enhancement	Subtotals 2, 3, & 7	\$210
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Notes: Enhancement due to two prior Notices of Violation containing violations that are the same as those in the current enforcement action and one agreed final enforcement order containing a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,363
Approx. Cost of Compliance	\$16,450

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$910
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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 \$910

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$910
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$910
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Screening Date 14-Jun-2010

Docket No. 2010-1069-PWS-E

PCW

Respondent T S RANCH & RETREAT, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104810619

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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) 30%

>> **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

Enhancement due to two prior Notices of Violation containing violations that are the same as those in the current enforcement action and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 14-Jun-2010

Docket No. 2010-1069-PWS-E

PCW

Respondent T S RANCH & RETREAT, Inc.

Policy Revision 2 (September 2002)

Case ID No. 34461

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104810619

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c) and TCEQ Agreed Order Docket No. 2007-1360-PWS-E, Ordering Provision No. 2.d.ii

Violation Description Failed to design, fabricate, and erect all facilities for potable water storage in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the 3,000 gallon ground storage tank ("GST") was made of polyurethane material, which is not an approved material for potable water storage tanks.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>>Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to provide a GST that meets AWWA standards may expose consumers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 6 Number of violation days 459

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$600

Six quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2007-1360-PWS-E, March 12, 2009, to the screening date, June 14, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$927

Violation Final Penalty Total \$780

This violation Final Assessed Penalty (adjusted for limits) \$780

Economic Benefit Worksheet

Respondent T S RANCH & RETREAT, Inc.
Case ID No. 34461
Reg. Ent. Reference No. RN104810619
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$6,450	12-Mar-2009	31-Mar-2011	2.05	\$44	\$882	\$927
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 necessary to provide a GST that meets AWWA standards calculated from effective date of TCEQ Agreed Order Docket No. 2007-1360-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance

\$6,450

TOTAL

\$927

Screening Date 14-Jun-2010 **Docket No.** 2010-1069-PWS-E **PCW**
Respondent T S RANCH & RETREAT, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 34461 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN104810619
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.39(e) and (h)(1), Tex. Health and Safety Code § 341.035(a) and TCEQ Agreed Order Docket No. 2007-1360-PWS-E, Ordering Provision No. 2.b.vi

Violation Description Failed to submit as-built plans and specifications for the Facility that have been prepared by a licensed, professional engineer for Commission review and approval. Specifically, at the time of the investigation, it was documented that the Respondent has not submitted as-built plans nor received Commission approval for the well, pressure tank, GST, service pump and hypochlorination system.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	

The Respondent failed to meet 100% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent T S RANCH & RETREAT, Inc.
Case ID No. 34461
Req. Ent. Reference No. RN104810619
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	12-Mar-2009	31-Mar-2011	2.05	\$68	\$1,368	\$1,436
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs The delayed costs include the amount necessary to prepare and submit engineering plans, specifications, and reports prepared by a registered professional engineer well versed in public water systems, calculated from effective date of TCEQ Agreed Order Docket No. 2007-1360-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,436

Compliance History Report

Customer/Respondent/Owner-Operator: CN602957821 T S RANCH & RETREAT, Inc. Classification: Rating:
Regulated Entity: RN104810619 TEXAS STAR RANCH & RETREAT Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1840160
Location: 5950 FM ROAD 920, WEATHERFORD, PARKER COUNTY, TX
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: June 14, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 14, 2005 to June 14, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 03/12/2009

ADMINORDER 2007-1360-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to perform annual inspection of pressure tank

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide ANSI / NSF certification paperwork for all chemicals used in treatment of water supplied by public water systems, specifically the calcium hypochlorite.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to compile a plant operations manual for the water system. Retain the completed plan and make it available for review by agency personnel at the time of the annual survey.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)

Description: Failure to cover and design, fabricate, erect, and test in strict accordance with AWWA standards all facilities for potable water storage, specifically the 3,000 gallons ground storage tank was made of polyurethane, no ladder, no water level indicator or no overflow.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)

Description: Failure to have a sampling tap on the well discharge line to facilitate the collection of samples for chemical and bacteriological analysis directly from the well.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Description: Failure to seal the wellhead with a gasket or a pliable crack resistant caulking compound and failed to cover the casing vent of the well with a 16-mesh or finer corrosion-resistant screening material.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a minimum pressure tank capacity of 220 gallons, specifically the water system is providing 81 gallons compared to the required 220 gallons.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain at least a minimum free chlorine residual of 0.2 mg/L throughout the distribution system and finished water storage tank at all times, specifically field test produced a 0.0 mg/L.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
 Description: Failure to inspect the ground storage and pressure tanks and record results at least annually.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failure to compile a monitoring plan for the water system. Retain the completed plan and make it available for review by agency personnel at the time of the annual survey.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
 Description: Failure to perform weekly chlorine residual test on water collected from various locations within the distribution system. Public water system must maintain a logbook of recorded weekly chlorine residuals.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
 Description: Failure to compile monthly operating reports. Retain the completed reports and make it available for review by agency personnel at the time of the annual survey.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)
 Description: Failure to have copies of bacteriological reports available for review during annual inspection of water system.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
 Description: failed to maintain records of water work operations and maintenance activities. Specifically failed to record the amount of water treated each week and failed to compile monthly operating reports.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to compile a map of the distribution system so that valves and mains may be easily located during emergencies.

Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
 Description: Failure to maintain copies of well completion data such as material setting data, geological log, and sealing information (pressure cementing and surface protection) for as long as the well remains in service.

Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)
 Description: Failure to secure the services of a registered professional engineer well versed in the design and construction of public water systems so that "as-built" plans and specifications can be prepared and submitted for our review.

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	10/12/2006	(513590)
2	03/06/2007	(542661)
3	07/26/2007	(567673)
4	11/04/2009	(774932)
5	04/01/2010	(785182)
6	06/11/2010	(825039)

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

Date: 10/06/2006 (513590)

CN602957821

Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)	
Description:	Failure to perform annual inspection of pressure tank	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)	
Description:	Failure to provide ANSI / NSF certification paperwork for all chemicals used in treatment of water supplied by public water systems, specifically the calcium hypochlorite.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)	
Description:	Failure to compile a plant operations manual for the water system. Retain the completed plan and make it available for review by agency personnel at the time of the annual survey.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)	
Description:	Failure to cover and design, fabricate, erect, and test in strict accordance with AWWA standards all facilities for potable water storage, specifically the 3,000 gallons ground storage tank was made of polyurethane, no ladder, no water level indicator or no overflow.	
Self Report?	NO	Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)
 Description: Failure to have a sampling tap on the well discharge line to facilitate the collection of samples for chemical and bacteriological analysis directly from the well.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 Description: Failure to seal the wellhead with a gasket or a pliable crack resistant caulking compound and failed to cover the casing vent of the well with a 16-mesh or finer corrosion-resistant screening material.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Failure to provide a minimum pressure tank capacity of 220 gallons, specifically the water system is providing 81 gallons compared to the required 220 gallons.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
 Description: Failure to maintain at least a minimum free chlorine residual of 0.2 mg/L throughout the distribution system and finished water storage tank at all times, specifically field test produced a 0.0 mg/L.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
 Description: Failure to inspect the ground storage and pressure tanks and record results at least annually.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failure to compile a monitoring plan for the water system. Retain the completed plan and make it available for review by agency personnel at the time of the annual survey.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
 Description: Failure to perform weekly chlorine residual test on water collected from various locations within the distribution system. Public water system must maintain a logbook of recorded weekly chlorine residuals.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
 Description: Failure to compile monthly operating reports. Retain the completed reports and make it available for review by agency personnel at the time of the annual survey.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)
 Description: Failure to have copies of bacteriological reports available for review during annual inspection of water system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
 Description: failed to maintain records of water work operations and maintenance activities. Specifically failed to record the amount of water treated each week and failed to compile monthly operating reports.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
 Description: Failure to compile a map of the distribution system so that valves and mains may be easily located during emergencies.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
 Description: Failure to maintain copies of well completion data such as material setting data, geological log, and sealing information (pressure cementing and surface protection) for as long as the well remains in service.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)
 Description: Failure to secure the services of a registered professional engineer well versed in the design and construction of public water systems so that "as-built" plans and specifications can be prepared and submitted for our review.

Date: 03/31/2010 (785182) CN602957821

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)
 Description: Failure to cover and design, fabricate, erect, and test in strict accordance with AWWA standards all facilities for potable water storage, specifically the 3,000 GST was made of polyurethane, no ladder, no water level indicator or no overflow.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
 Description: Failure to maintain at least a minimum free chlorine residual of 0.2 mg/L throughout the distribution system and finished water storage tank at all times, specifically field test produced a 0.0 mg/L.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)
 Description: Failure to secure the services of a registered professional engineer well versed in the design and construction of public water systems so that "as-built" plans and specifications can be prepared and submitted for our review.

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
T S RANCH & RETREAT, INC.;
RN104810619**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1069-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding T S RANCH & RETREAT, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a public water supply located at 5950 Farm-to-Market Road 920 in Weatherford, Parker County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 17 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted on May 25, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to design, fabricate, and erect all facilities for potable water storage in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, it was documented that the 3,000 gallon ground storage tank ("GST") was made of polyurethane material, which is not an approved material for potable water storage tanks; and

- b. Failed to submit as-built plans and specifications for the Facility that have been prepared by a licensed, professional engineer for Commission review and approval. Specifically, it was documented that the Respondent has not submitted as built plans nor received Commission approval for the well, pressure tank, GST, service pump, and hypochlorination system.
3. Respondent received notice of the violations on or about June 16, 2010.
4. The Executive Director recognizes that Respondent submitted plans to TCEQ for a 3,000 gallon potable ground water storage tank ("GST") on or about March 4, 2011.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to design, fabricate, and erect all facilities for potable water storage in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c) and TCEQ Agreed Order Docket No. 2007-1360-PWS-E, Ordering Provision No. 2.d.ii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit as-built plans and specifications for the Facility that have been prepared by a licensed, professional engineer for Commission review and approval, in violation of 30 TEX. ADMIN. CODE § 290.39(e) and (h)(1), TEX. HEALTH AND SAFETY CODE § 341.035(a), and TCEQ Agreed Order Docket No. 2007-1360-PWS-E, Ordering Provision No. 2.b.vi.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of nine hundred ten dollars (\$910.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid nine hundred ten dollars (\$910.00) of the administrative penalty.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.

2. Respondent shall undertake the following technical requirements:

- a. Within 180 days after the effective date of this Order, Respondent shall:
 - i. Provide a GST designed, fabricated, and erected in strict accordance with current AWWA standards, in accordance with 30 TEX. ADMIN. CODE § 290.43 and submit a photograph of the GST prior to its installation for TCEQ review and/or approval; or, obtain an exception in accordance with 30 TEX. ADMIN. CODE § 290.39(1) to use a potable water storage tank made of polyurethane materials; and
 - ii. Submit as-built plans and specifications for the Facility's well, pressure tank, ground storage tank, service pump, and hypochlorination system that have been prepared by a licensed, professional engineer for Commission review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.39.
- b. Respond completely and adequately, as determined by the TCEQ, to all letter requests for information concerning 2.a.i. and/or 2.a.ii. within 30 days after the date of such letters, or by any other deadline specified in writing; and
- c. Within 195 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

with a copy to:

Sid Slocum, Water Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Dr.
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may, 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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


For the Executive Director

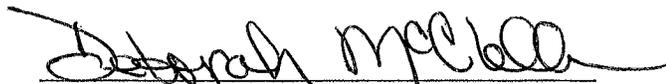
10/29/2011 ^{RRP} ~~9/16/11~~
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of T S RANCH & RETREAT, Inc., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.


Signature - Deborah McClellan, President
T S RANCH & RETREAT, Inc.

9/2/11
Date