

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2009-1652-PWS-E RN101440949 CASE NO. 38507
RESPONDENT NAME: FLO COMMUNITY WATER SUPPLY CORPORATION

ORDER TYPE:		
<input checked="" type="checkbox"/> AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: approximately nine miles southwest of Buffalo, near the intersection of County Road 831 and County Road 1511, Leon County

TYPE OF OPERATION: public water system

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired January 24, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-3400
 Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Epifanio Villarreal, Water Enforcement Section, MC R-14, (361) 825-3100

TCEQ Regional Contact: Frank Bureson, Waco Regional Office, MC R-9, (254) 751-0335

Respondent: Robert Boettcher, President, Flo Community Water Supply Corporation, 8496 CR 329, Buffalo, Texas 75831

Respondent's Attorney: James B. Davis, P.C., 6923 P.R. 3155, Buffalo, Texas 75831

**RESPONDENT NAME:
FLO COMMUNITY WATER SUPPLY CORPORATION
DOCKET NO. 2009-1652-PWS-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Date of Investigation: August 6, 2009</p> <p>Date of NOE: August 28, 2009</p> <p>Background Facts: The EDPRP was filed on August 25, 2010. Respondent filed an answer and the matter was referred to SOAH. The Agreed Order was signed on November 18, 2010</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>PWS: 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 [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$1,510</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Offset Amount: \$0</p> <p>Total Paid/Due to General Revenue: \$755/\$755</p> <p>Respondent paid \$755 of the administrative penalty. The remaining amount of \$755 shall be paid within 30 days after the effective date of the order.</p> <p>Compliance History Classifications: N/A</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Respondent is pursuing the grant process with the Texas Department of Rural Affairs to purchase emergency generators for two of the plants that are part of the Facility, that its grant applications have been approved, and that its projects have been funded.</p> <p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 90 days, provide emergency power at the Flo Plant that will deliver water at a minimum of 0.35 gpm per connection. 2. Within 288 days, provide emergency power at the Russell Plant that will deliver water at a minimum of 0.35 gpm per connection. 3. Within 300 days, submit written certification demonstrating compliance.

Compliance History Report

Customer/Respondent/Owner-Operator: CN600624944 Flo Community Water Supply Corporation Classification: Rating:
Regulated Entity: RN101440949 FLO COMMUNITY WSC Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1450015
WATER LICENSING LICENSE 1450015
Location: APPROXIMATELY NINE MILES SOUTHWEST OF BUFFALO NEAR THE INTERSECTION OF COUNTY ROAD 831 AND COUNTY ROAD 1511, IN LEON COUNTY, TEXAS
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: September 30, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 30, 2004 to September 30, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Christopher Keffer Phone: 239 - 5610

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 judgments, and consent decrees of the State of Texas and the federal government.
Effective Date: 12/15/2005 ADMINORDER 2005-0972-PWS-E

Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)

Description: Failure to issue a Boil Water Notice.

Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)
5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failure to employ operators with the proper licenses.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain the distribution system in a watertight condition.

Effective Date: 07/22/2006 ADMINORDER 2006-0113-PWS-E

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to meet the minimum total capacity requirement of 0.6 gallons per minute ("gpm") per connection with two or more wells.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a pressure tank capacity of 20 gallons per connection at the Flo, Weedon, and Highway 75 facilities.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a two or more pumps that have a total capacity of 2.0 gallons per minute ("gpm") at each pump station or pressure plane.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)

Description: Failure to provide forced air ventilation fans in the gas chlorination rooms that properly draw air in through a top vent and discharge to the outside atmosphere through a floor level vent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failure to complete a customer service inspection certificate prior to providing continuous water service.

Classification: Minor

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

Description: Failure to provide a suitable sampling tap on the Flo facility local well discharge line prior to any treatment.

Classification: Minor

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

Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to post a legible sign in plain view at the Flo facility remote well that includes the name of the water supply and a telephone number where a responsible official can be contacted.

Classification: Moderate

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

Description: Failure to provide an intruder-resistant fence to protect the wells, pressure tanks, and ground storage tanks.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to properly maintain the exterior coating on the ground storage tank.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.118(a)

30 TAC Chapter 290, SubChapter F 290.118(b)

Description: Failure to adhere to the secondary constituent maximum contamination level for iron.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)

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

Description: Failure to provide an elevated storage tank capacity of 100 gallons per connection at the Keechi facility.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/11/2006	(393001)
2	08/09/2007	(570922)
3	09/30/2008	(684968)
4	12/16/2008	(701782)
5	12/30/2008	(710149)
6	03/31/2009	(740477)
7	06/09/2009	(747564)
8	08/31/2009	(760245)

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

Date: 10/23/2006 (514414)

CN600624944

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)

Description: Failure to provide at all times a minimum pressure of 35 pounds per square inch (psi) in the distribution system.

Date: 09/30/2008 (701575)

CN600624944

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)

30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi).

Date: 10/08/2008 (684968)

CN600624944

Self Report? NO

Classification: Minor

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

Description: Failure to maintain the system facilities to insure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(34)
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder-resistant fence or lockable building in order to protect the well, pressure tank, and ground storage tank.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to properly maintain the interior coating of both ground storage tanks at the Flo Plant.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank.

Self Report? NO Classification: Minor

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

Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(3)

Description: Failure to provide an air gap at an overhead bulk water dispensing station.

Date: 03/27/2009 (740477) CN600624944

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v)

Description: Failure to provide emergency power.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Sep-2009			
	PCW	19-Jul-2010	Screening	29-Sep-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Flo Community Water Supply Corporation
Reg. Ent. Ref. No.	RN101440949
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38507	No. of Violations	1
Docket No.	2009-1652-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		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	\$1,000
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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	51.0% Enhancement	Subtotals 2, 3, & 7	\$510
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Notes: Enhancement is due to one NOV with the same or similar violation, three NOVs with dissimilar violations and two final enforcement orders 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 \$5,393
 Approx. Cost of Compliance \$61,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,510
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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 \$1,510

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,510
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$1,510
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Screening Date 29-Sep-2009

Docket No. 2009-1652-PWS-E

PCW

Respondent Flo Community Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38507

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101440949

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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%
<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) 51%

>> 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 is due to one NOV with the same or similar violation, three NOVs with dissimilar violations and two final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 51%

Screening Date	29-Sep-2009	Docket No.	2009-1652-PWS-E	PCW
Respondent	Flo Community Water Supply Corporation			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38507			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101440949			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Epifanio Villarreal			
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(D)(v) and Tex. Health & Safety Code § 341.0315(c)"/>			
Violation Description	<input 250="" a="" an="" and="" as="" at="" back-up="" connection="" connections."="" documented="" elevated="" emergency="" event="" facilities="" facility="" failed="" for="" generator,="" gpm")="" have="" in="" is="" it="" loss="" more="" no="" normal="" of="" or="" per="" power="" provide="" record="" required="" review,="" serve="" service="" source,="" specifically,="" storage="" such="" supply.="" that="" the="" time="" to="" type="text" value="Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute (" was="" which=""/>			
	Base Penalty	<input type="text" value="\$1,000"/>		

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="50%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Without any emergency power, customers of the Facility could experience water outages and the Facility's ability to provide a safe and reliable water supply could be compromised."/>				
	Adjustment	<input type="text" value="\$500"/>			

Violation Events

Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="54"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$1,000"/>
	weekly	<input type="text"/>		
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	<input type="text" value="Two monthly events are recommended from the date of the record review, August 6, 2009, to the date of screening, September 29, 2009."/>			

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	Violation Subtotal <input type="text" value="\$1,000"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			

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

Estimated EB Amount	<input type="text" value="\$5,393"/>	Violation Final Penalty Total	<input type="text" value="\$1,510"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,510"/>

Economic Benefit Worksheet

Respondent Flo Community Water Supply Corporation
Case ID No. 38507
Reg. Ent. Reference No. RN101440949
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	\$61,000	27-Mar-2009	1-Jul-2010	1.26	\$257	\$5,136	\$5,393
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 amount to provide sufficient emergency power to deliver a minimum of 0.35 gpm per connection to each of the 1536 connections, calculated from the first date the violation was documented to 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

\$61,000

TOTAL

\$5,393

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FLO COMMUNITY WATER SUPPLY
CORPORATION;
RN101440949**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1652-PWS-E

I. JURISDICTION AND STIPULATIONS

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 Flo Community Water Supply Corporation ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by James B. Davis, P.C., appear before the Commission and together stipulate that:

1. Respondent owns and operates a public water system located approximately nine miles southwest of Buffalo, near the intersection of County Road 831 and County Road 1511 in Leon County, Texas (the "Facility"). The Facility provides water for human consumption, has 1,536 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). The Facility is comprised of five distribution plants, including the two at issue in this Agreed Order, the Flo Plant and the Russell Plant.
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of one thousand five hundred ten dollars (\$1,510.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid seven hundred fifty-five dollars (\$755.00) of the administrative penalty. The remaining amount of seven hundred fifty-five dollars (\$755.00) of the administrative penalty shall be paid within 30 days after the effective date of this Agreed Order. If Respondent fails to timely and satisfactorily

comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondent is pursuing the grant process with the Texas Department of Rural Affairs to purchase emergency generators for the Flo Plant and the Russell Plant, that its grant applications have been approved, and that its projects have been funded.
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 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

1. During a record review conducted on August 6, 2009, a TCEQ Waco Regional Office investigator documented that Respondent violated 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c) by failing 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, the Facility failed to provide an emergency power source, such as a back-up generator, which is required for facilities that have no elevated storage and serve 250 or more service connections.
2. Respondent received notice of the violation on or about September 2, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. 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 Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Flo Community Water Supply Corporation, Docket No. 2009-1652-PWS-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, Respondent shall provide emergency power at the Flo Plant that will deliver water at a minimum of 0.35 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
 - b. Within 288 days after the effective date of this Agreed Order, respondent shall provide emergency power at the Russell Plant that will deliver water at a minimum of 0.35 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
 - c. Within 300 days after the effective date of this Agreed 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. and b. 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

and

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

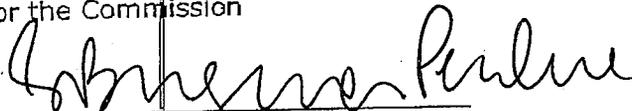
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations 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. This Agreed Order, issued by the Commission, shall not be admissible against 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 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.

8. 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

1/7/2011
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 Flo Community Water Supply Corporation, 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 - Mr. Robert Boettcher, President
Flo Community Water Supply Corporation

November 18, 2010
Date