

Executive Summary – Enforcement Matter – Case No. 28010
Bosque Basin Water Supply Corporation
RN101213544
Docket No. 2010-1245-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
352 Oak Street, China Spring, McLennan County

Type of Operation:
public water system

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: April 15, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$14,355

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$14,355

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

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 21, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): July 30, 2010

Violation Information

1. Failed to provide copies of well completion data [30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Default Order Docket No. 2008-1593-PWS-E, Ordering Provision 2.c.iii].
2. Failed to keep on file and make available for Commission review documentation of a sanitary control easement for Well No. 1 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Default Order Docket No. 2008-1593-PWS-E, Ordering Provision 2.c.i].
3. Failed to locate the Facility's well at least 150 feet away from a septic tank perforated drain field [30 TEX. ADMIN. CODE § 290.41(c)(1)(A) and TCEQ Agreed Order Docket No. 2006-0075-MLM-E, Ordering Provision 2.c.i].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 60 days:
 - a. Begin maintaining well completion data on file, including but not limited to the driller's logs and cementing certificates; and
 - b. Provide a sanitary control easement covering all property within 150 feet of Well No. 1.
2. Within 180 days, ensure that Well No. 1 is at least 150 feet away from any septic tank perforated drain fields.
3. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: October 18, 2010
Date(s) Green Card(s) Signed: October 19, 2010
Date(s) Answer(s) Filed: December 3, 2010
SOAH Referral Date: January 3, 2011
Hearing Date(s):
Preliminary hearing: February 24, 2011 (defaulted)
Evidentiary hearing: N/A

Executive Summary – Enforcement Matter – Case No. 28010
Bosque Basin Water Supply Corporation
RN101213544
Docket No. 2010-1245-PWS-E

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (210) 403-4016
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Epifanio Villarreal, Water Enforcement Section, (361) 825-3425

TCEQ Regional Contact: Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001

Respondent: Laura M. Myers, Secretary, Bosque Basin Water Supply Corporation, 328 Spring Ridge Circle, China Spring, Texas 76633

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	2-Aug-2010	Screening	3-Aug-2010	EPA Due	31-May-2011
	PCW	3-Aug-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Bosque Basin Water Supply Corporation		
Reg. Ent. Ref. No.	RN101213544		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	28010	No. of Violations	3
Docket No.	2010-1245-PWS-E	Order Type	Findings
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	\$9,900
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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	45.0% Enhancement	Subtotals 2, 3, & 7	\$4,455
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Notes	Enhancement for one order with denial and one default order.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$65,983	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$250,110	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$14,355
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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	
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Final Penalty Amount	\$14,355
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$14,355
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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	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	\$14,355
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Screening Date 3-Aug-2010

Docket No. 2010-1245-PWS-E

PCW

Respondent Bosque Basin Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 28010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101213544

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

>> 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 for one order with denial and one default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 3-Aug-2010 **Docket No.** 2010-1245-PWS-E **PCW**
Respondent Bosque Basin Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 28010 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101213544
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3) and TCEQ Default Order Docket No. 2008-1593-PWS-E, Ordering Provision 2.c.iii

Violation Description

Failed to provide copies of well completion data. Specifically, at the time of the investigation, it was documented that the driller's log and the cementing certificate for Well No. 1 were not available for review.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

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

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

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="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 checked="" 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 Bosque Basin Water Supply Corporation
Case ID No. 28010
Req. Ent. Reference No. RN101213544
Media 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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$90	9-Aug-2009	1-May-2011	1.73	\$8	n/a	\$8
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 a driller's log and cementing certificate for Well No. 1, calculated from the effective date of TCEQ Default Order Docket No. 2008-1593-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 \$90

TOTAL \$8

Screening Date 3-Aug-2010
Respondent Bosque Basin Water Supply Corporation
Case ID No. 28010
Reg. Ent. Reference No. RN101213544
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Docket No. 2010-1245-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F) and TCEQ Default Order Docket No. 2008-1593-PWS-E, Ordering Provision 2.c.i

Violation Description Failed to keep on file and make available for Commission review documentation of a sanitary control easement for Well No. 1.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	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 type="text" value="x"/>	

>> 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

Without a sanitary control easement, contaminants could enter the well and customers of the water supply could be exposed to insignificant amounts of contaminants that do not exceed levels protective of human health.

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 Bosque Basin Water Supply Corporation
Case ID No. 28010
Req. Ent. Reference No. RN101213544
Media Violation No. Public Water Supply
 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)	\$20	9-Aug-2009	1-May-2011	1.73	\$0	\$2	\$2
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 a sanitary control easement for Well No.1, calculated from the effective date of TCEQ Default Order Docket No. 2008-1593-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 \$20

TOTAL \$2

Screening Date 3-Aug-2010

Docket No. 2010-1245-PWS-E

PCW

Respondent Bosque Basin Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 28010

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101213544

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(A) and TCEQ Agreed Order Docket No. 2006-0075-MLM-E, Ordering Provision 2.c.i

Violation Description

Failed to locate the Facility's well at least 150 feet away from a septic tank perforated drain field. Specifically, at the time of the investigation, it was documented that Well No. 1 is located within 150 feet of the neighbor's septic tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to locate the well at least 150 feet from a septic tank perforated drain field could result in contamination of the water supply and/or exposure of customers to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 39

1166 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$9,750

Thirty-nine monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2006-0075-MLM-E, May 25, 2007, to the date of screening, August 3, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$9,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$65,973

Violation Final Penalty Total \$14,138

This violation Final Assessed Penalty (adjusted for limits) \$14,138

Economic Benefit Worksheet

Respondent Bosque Basin Water Supply Corporation
Case ID No. 28010
Req. Ent. Reference No. RN101213544
Media Violation No. Public Water Supply
 3

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	\$250,000	25-May-2007	1-Mar-2011	3.77	\$3,142	\$62,831	\$65,973
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 estimated amount to relocate the well to ensure it is located at least 150 feet away from the septic tank perforated drain field, calculated from the effective date of TCEQ Agreed Order Docket No. 2006-0075-MLM-E, 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 \$250,000

TOTAL \$65,973

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600656292	Bosque Basin Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101213544	BOSQUE BASIN WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	1550074
	WATER LICENSING		LICENSE	1550074
Location:	352 OAK ST, CHINA SPRING, MCLENNAN COUNTY, TEXAS			
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	August 03, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 03, 2005 to August 03, 2010			

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 judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 05/25/2007 ADMINORDER 2006-0075-MLM-E
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
- Description: Failed to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)
- Description: Failed to locate a well site for a public drinking water system at least 150 feet from a septic tank perforated drainfield.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
- Rqmt Prov: 2006-0075-MLM-E ORDER
- Description: Failed to keep on file and make available for Commission review documentation of a sanitary control easement for Well No. 1.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
- Description: Failed to provide a concrete sealing block that extends at least three feet in all directions from the well casing.
- Classification: Minor
- Citation: 30 TAC Chapter 288, SubChapter C 288.30(5)(B)
- Description: Failed to keep on file and make available for Commission review a drought contingency plan that was prepared and adopted by May 1, 2005.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
- Description: Failed to provide a pressure gauge calibrated in feet of water for the ground storage tanks.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)
- 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
- Description: Failed to provide Facility records to Commission personnel at the time of the investigation.
- Effective Date: 08/09/2009 ADMINORDER 2008-1593-PWS-E

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Rqmt Prov: 2006-0075-MLM-E ORDER
Description: Failed to keep on file and make available for Commission review documentation of a sanitary control easement for Well No. 1.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
Description: Failed to provide a concrete sealing block that extends at least three feet in all directions from the well casing.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
Description: Failed to provide a pressure gauge calibrated in feet of water for the ground storage tanks.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
Description: Failed to provide Facility records to Commission personnel at the time of the investigation.

Classification: Minor
Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)
30 TAC Chapter 7 7.101
Description: Failure to comply with a provision of a Commission Order.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failed to install a backflow prevention assembly or an air gap at all residences and establishments where an actual or potential contamination hazard exists.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failed to conduct an inspection of the interior of the pressure tank at least once every five years.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failed to maintain an up-to-date plant operations manual for operator review and reference.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)
5A THSC Chapter 341, SubChapter A 341.033(a)
Description: Failed to operate the facility under the direct supervision of a water works operator who holds a Class "D" or higher license.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failed to calibrate the Facility's two well meters once every three years.

Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
Description: Failed to provide copies of well completion data.

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	10/28/2005	(435220)
2	01/11/2006	(438202)
3	05/15/2007	(644678)
4	09/25/2008	(700515)
5	10/16/2008	(703298)
6	07/29/2010	(842851)

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

N/A

- 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BOSQUE BASIN WATER
SUPPLY CORPORATION;
RN101213544**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1245-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Bosque Basin Water Supply Corporation ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 352 Oak Street in China Spring, McLennan County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 64 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 July 21, 2010, a TCEQ Waco Regional Office investigator documented that Respondent:
 - a. Failed to provide copies of well completion data. Specifically, the driller's log and the cementing certificate for Well No. 1 were not available for review;
 - b. Failed to keep on file and make available for Commission review documentation of a sanitary control easement for Well No. 1; and
 - c. Failed to locate the Facility's well at least 150 feet away from a septic tank perforated drain field. Specifically, Well No. 1 is located within 150 feet of a septic tank.
3. Respondent received notice of the violations on or about August 4, 2010.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bosque Basin Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on October 18, 2010.

5. Respondent filed an answer requesting a hearing on December 3, 2010, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on January 3, 2011.
6. On January 18, 2011, the TCEQ Chief Clerk mailed notice of the February 24, 2011, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
7. On February 24, 2011, the Administrative Law Judge ("ALJ") convened the preliminary hearing, but Respondent failed to appear. The ALJ entered a finding that Respondent was served with proper notice of the hearing, and the Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH Docket.
8. The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Dismissing and Remanding Proceeding, issued on March 1, 2011, so that TCEQ may dispose of this case on a default basis.

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 provide copies of well completion data, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Default Order Docket No. 2008-1593-PWS-E, Ordering Provision No. 2.c.iii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to keep on file and make available for Commission review documentation of a sanitary control easement for Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Default Order Docket No. 2008-1593-PWS-E, Ordering Provision No. 2.c.i.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to locate the Facility's well at least 150 feet away from a septic tank perforated drain field, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) and TCEQ Agreed Order Docket No. 2006-0075-MLM-E, Ordering Provision No. 2.c.i.
5. As evidenced by Finding of Fact No. 5, Respondent filed an answer requesting a hearing as required by TEX. HEALTH & SAFETY CODE § 341.049(e) and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to TEX. HEALTH & SAFETY CODE § 341.049(g), 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(a)(3), and 30 TEX. ADMIN. CODE § 70.109.
6. As evidenced by Finding of Fact No. 6, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. HEALTH & SAFETY CODE § 349.049(g), 1 TEX. ADMIN. CODE §§ 155.103(a), 155.401, and 155.501(c) and (e)(2), and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.

7. As evidenced by Findings of Fact Nos. 7 and 8, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. HEALTH & SAFETY CODE § 349.049(g), and 1 TEX. ADMIN. CODE § 155.501(e)(1)(A), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
8. 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.
9. An administrative penalty in the amount of fourteen thousand three hundred fifty-five dollars (\$14,355.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of fourteen thousand three hundred fifty-five dollars (\$14,355.00) 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 Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Bosque Basin Water Supply Corporation; Docket No. 2010-1245-PWS-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Order, Respondent shall:

- i. Begin maintaining well completion data on file at the Facility, including but not limited to driller's logs and cementing certificates, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 2); and
 - ii. Provide a sanitary control easement covering all property within 150 feet of Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41 (Conclusion of Law No. 3).
- b. Within 180 days after the effective date of this Order, Respondent shall ensure that Well No. 1 is at least 150 feet away from any septic tank perforated drain fields, in accordance with 30 TEX. ADMIN. CODE § 290.41 (Conclusion of Law No. 4).
- 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. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and shall 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
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS

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COUNTY OF BEXAR

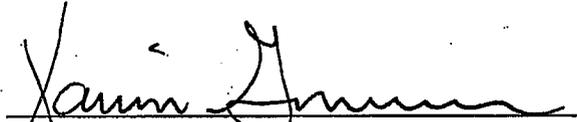
"My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bosque Basin Water Supply Corporation" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 18, 2010.

Respondent filed an answer requesting a hearing on December 3, 2010, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on January 3, 2011. On January 18, 2011, the TCEQ Chief Clerk mailed notice of the February 24, 2011, preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on February 24, 2011. At that hearing, I requested and received a finding that Respondent was served with proper notice of the hearing pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(2). I also requested that the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1)(A), which gives an ALJ the authority to remand the case back to the agency "to allow the agency to dispose of the case on a default basis under TEX. GOV'T CODE § 2001.056(4) and the referring agency's rules."

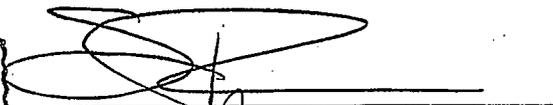
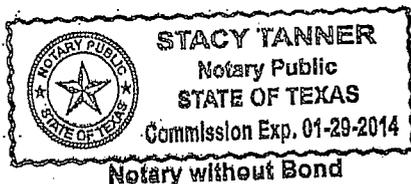
The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Dismissing and Remanding Proceedings, issued on March 1, 2011, so that TCEQ may dispose of this case on a default basis."



Xavier Guerra, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 29th day of March, A.D. 2011.



Notary Signature