

CAPTION: Docket No. 2010-2002-PWS-E. Consideration of an Agreed Order assessing administrative penalties against Memorial Point Utility District in Polk County; RN101457802; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Kelly Wisian, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-2002-PWS-E **TCEQ ID:** RN101457802 **CASE NO.:** 40843
RESPONDENT NAME: Memorial Point Utility District

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Memorial Point Utilities District, 251 Stevens Lane, Livingston, Polk County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on October 20, 2010 alleging water outages and low water pressure. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 25, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Kelly Wisian, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2570; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Ron L. McAnear, President, Memorial Point Utility District, 251 Stevens Lane, Livingston, Texas 77351 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: October 20, 2010</p> <p>Date of Investigation Relating to this Case: November 5, 2010</p> <p>Date of NOV/NOE Relating to this Case: December 1, 2010 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failed to issue a boil water notification within 24 hours using the prescribed format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1)].</p> <p>2) Failed to keep on file and make available for review at the Facility a record of the date, location, and nature of water quality, pressure, or outage complaints received by the Respondent and the results of any subsequent complaint investigation [30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii)].</p> <p>3) Failed to follow the flowchart found in 30 TEX. ADMIN. CODE § 290.47(h) to determine if a boil water notification must be issued in the event of a loss of distribution system pressure [30 TEX. ADMIN. CODE § 290.46(q)(2)].</p>	<p>Total Assessed: \$710</p> <p>Total Deferred: \$142 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$568</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On December 16, 2010, the Respondent submitted a copy of the Facility's standard operating procedures for following the proper protocol to issue boil water notifications when required; and</p> <p>b. On December 16, 2010, the Respondent implemented procedures of recording and retaining records of customer complaints.</p>

Additional ID No(s): PWS 1870030



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	6-Dec-2010	Screening	7-Dec-2010	EPA Due	
	PCW	13-Dec-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Memorial Point Utility District
Reg. Ent. Ref. No.	RN101457802
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	3
Enf./Case ID No.	40843	Order Type	1660
Docket No.	2010-2002-PWS-E	Government/Non-Profit	Yes
Media Program(s)	Public Water Supply	Enf. Coordinator	Kelly Wisian
Multi-Media		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** \$540

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 2.0% Enhancement **Subtotals 2, 3, & 7** \$10

Notes: Enhancement for one NOV with a dissimilar violation.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$4

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$531
Approx. Cost of Compliance \$747
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$546

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$546

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$710

DEFERRAL 20.0% Reduction **Adjustment** -\$142

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY \$568

Screening Date 7-Dec-2010

Docket No. 2010-2002-PWS-E

PCW

Respondent Memorial Point Utility District

Policy Revision 2 (September 2002)

Case ID No. 40843

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101457802

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with a dissimilar violation.

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

Screening Date 7-Dec-2010

Docket No. 2010-2002-PWS-E

PCW

Respondent Memorial Point Utility District

Policy Revision 2 (September 2002)

Case ID No. 40843

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101457802

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(q)(1)

Violation Description Failed to issue a boil water notification within 24 hours using the prescribed format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, at the time of the November 5th investigation, it was documented that there were ten water outages during September and October of 2010 and no boil water notices were issued.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
Failure to issue a boil water notice may prevent the public from taking the appropriate measures necessary in response to the delivery of water that may contain a significant amount of contaminants which would exceed levels protective of human health.					0%

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 61

mark only one with an x	daily		Violation Base Penalty \$500
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		

Two monthly events are recommended for the months of September and October 2010 when boil water notifications should have been issued.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$477

Violation Final Penalty Total \$510

This violation Final Assessed Penalty (adjusted for limits) \$510

Economic Benefit Worksheet

Respondent Memorial Point Utility District
Case ID No. 40843
Reg. Ent. Reference No. RN101457802
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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	5-Nov-2010	16-Dec-2010	0.11	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the standard operating procedure to ensure boil water notices are issued in a timely manner, calculated from the date of the investigation to the 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]	\$452	1-Sep-2010	31-Oct-2010	1.08	\$24	\$452	\$476
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to provide a boil water notice to customers of the Facility, calculated for the months in which a boil water notice should have been issued.

Approx. Cost of Compliance	\$552	TOTAL	\$477
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Screening Date 7-Dec-2010

Docket No. 2010-2002-PWS-E

PCW

Respondent Memorial Point Utility District

Policy Revision 2 (September 2002)

Case ID No. 40843

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101457802

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(A)(iii)

Violation Description

Failed to keep on file and make available for review at the Facility a record of the date, location, and nature of water quality, pressure, or outage complaints received by the Respondent and the results of any subsequent complaint investigation. Specifically, at the time of the investigation, it was documented that the Facility failed to maintain a log to document the dates and addresses of complaints received.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Less than 30% of rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 Number of violation days 32

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

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$1

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

Notes The Respondent achieved compliance on December 16, 2010.

Violation Subtotal \$9

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Memorial Point Utility District
Case ID No. 40843
Reg. Ent. Reference No. RN101457802
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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	5-Nov-2010	16-Dec-2010	0.11	\$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 ensure that a complete record of complaints are kept on file at the Facility, calculated from the date of the investigation to the 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

\$45

TOTAL

\$0

Screening Date 7-Dec-2010

Docket No. 2010-2002-PWS-E

PCW

Respondent Memorial Point Utility District

Policy Revision 2 (September 2002)

Case ID No. 40843

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101457802

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.46(q)(2)

Violation Description

Failed to follow the flowchart found in 30 Tex. Admin. Code § 290.47(h) to determine if a boil water notification must be issued in the event of a loss of distribution system pressure. Specifically, at the time of the investigation, it was documented that three boil water notices were issued for water outages that occurred in June, July, and August 2010, however the Respondent did not provide notification to the Commission as specified in the flowchart found in 30 Tex. Admin. Code § 290.47(h).

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 3

3 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$30

Three single events are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$3

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

Notes The Respondent achieved compliance on December 16, 2010.

Violation Subtotal \$27

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$28

This violation Final Assessed Penalty (adjusted for limits) \$150

Economic Benefit Worksheet

Respondent Memorial Point Utility District
Case ID No. 40843
Reg. Ent. Reference No. RN101457802
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	5-Nov-2010	16-Dec-2010	0.11	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to update the standard operating procedure to ensure boil water notices are issued in a timely manner, calculated from the date of the investigation to the 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]	\$50	1-Jun-2010	31-Aug-2010	1.17	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to provide a boil water notice to the TCEQ, calculated for the three instances when a boil water notification was provided to customers, but not to the TCEQ.

Approx. Cost of Compliance

\$150

TOTAL

\$53

Compliance History Report

Customer/Respondent/Owner-Operator: CN600627640 Memorial Point Utility District Classification: AVERAGE Rating: 1.79
Regulated Entity: RN101457802 MEMORIAL POINT UTILITIES DISTRICT Classification: Site
Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
WATER LICENSING LICENSE 1870030
Location: 251 STEVENS LANE, LIVINGSTON, POLK COUNTY, TEXAS
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: December 06, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 06, 2005 to December 06, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Kelly Wisian Phone: (512) 239-2570

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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 02/10/2006 (440164)
2 09/28/2006 (509643)
3 12/17/2007 (611218)
4 08/13/2009 (746298)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 02/10/2006 (440164) CN600627640
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.121
Description: Failure to provide a monitoring plan.
- 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
MEMORIAL POINT UTILITY
DISTRICT
RN101457802**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-2002-PWS-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Memorial Point Utility District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 251 Stevens Lane in Livingston, Polk County, Texas (the "Facility") that has approximately 452 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on December 9, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Seven Hundred Ten Dollars (\$710) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Five Hundred Sixty-Eight Dollars (\$568) of the administrative penalty and One Hundred Forty-Two Dollars (\$142) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On December 16, 2010, the Respondent submitted a copy of the Facility's standard operating procedures for following the proper protocol to issue boil water notifications when required; and
 - b. On December 16, 2010, the Respondent implemented procedures of recording and retaining records of customer complaints.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to issue a boil water notification within 24 hours using the prescribed format as specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1), as documented during an investigation conducted on November 5, 2010.
2. Failed to keep on file and make available for review at the Facility a record of the date, location, and nature of water quality, pressure, or outage complaints received by the Respondent and the results of any subsequent complaint investigation, in violation of 30

TEX. ADMIN. CODE § 290.46(f)(3)(A)(iii), as documented during an investigation conducted on November 5, 2010.

3. Failed to follow the flowchart found in 30 TEX. ADMIN. CODE § 290.47(h) to determine if a boil water notification must be issued in the event of a loss of distribution system pressure, in violation of 30 TEX. ADMIN. CODE § 290.46(q)(2), as documented during an investigation conducted on November 5, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Memorial Point Utility District, Docket No. 2010-2002-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 4/4/2011

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 2-14-2011

RON L. MCANEAR
Name (Printed or typed)
Authorized Representative of
Memorial Point Utility District

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.