

Executive Summary – Enforcement Matter – Case No. 41199
Concho Rural Water Corporation
RN101215853
Docket No. 2011-0294-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Concho Rural Water The Oaks, along U.S. Highway 277 between the intersections of U.S. Highway 277 and Farm-to-Market Road 584 and U.S. Highway 277 and Farm-to-Market Road 2335, Tom Green County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 20, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$355

Amount Deferred for Expedited Settlement: \$71

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$284

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: 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

Executive Summary – Enforcement Matter – Case No. 41199
Concho Rural Water Corporation
RN101215853
Docket No. 2011-0294-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 25, 2011

Date(s) of NOE(s): February 15, 2011

Violation Information

1. Failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system [30 TEX. ADMIN. CODE § 290.39(j)].
2. Failed to provide an intruder-resistant fence or lockable building for all potable water storage tanks and pressure maintenance facilities [30 TEX. ADMIN. CODE § 290.43(e)].
3. Failed to post a legible sign at each production, treatment and storage Facility that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. On February 15, 2011, the Respondent's engineer submitted "as-built" plans and specifications for the Green Oaks pump station;
2. On February 16, 2011, the Respondent installed an intruder-resistant fence at the Green Oaks pump station; and
3. On February 17, 2011, the Respondent posted an ownership sign at the Green Oaks pump station.

Technical Requirements:

1. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the "as-built" plans and specifications for the Green Oaks pump station within 15 days after the date of such requests, or by any other deadline specified in writing;
2. Within 60 days after the effective date of this Agreed Order, obtain Commission approval for use of the Green Oaks pump station; and
3. Within 75 days after the effective date of this Agreed Order, submit written certification demonstrating compliance.

Executive Summary – Enforcement Matter – Case No. 41199
Concho Rural Water Corporation
RN101215853
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Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Kelly Wisian, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2570; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Ben Wiese, President, Concho Rural Water Corporation, 8174 United
States Highway 87 North, San Angelo, Texas 76901-7402
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Feb-2011	Screening	23-Feb-2011	EPA Due	
	PCW	24-Feb-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Concho Rural Water Corporation		
Reg. Ent. Ref. No.	RN101215853		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41199	No. of Violations	3	
Docket No.	2011-0294-PWS-E	Order Type	1660	
Media Program(s)	Public Water Supply	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Kelly Wisian	
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes Enhancement for one NOV containing the same violation and one final agreed order containing a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 23-Feb-2011

Docket No. 2011-0294-PWS-E

PCW

Respondent Concho Rural Water Corporation

Policy Revision 2 (September 2007)

Case ID No. 41199

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101215853

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 25%

>> **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 NOV containing the same violation and one final agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 23-Feb-2011

Docket No. 2011-0294-PWS-E

PCW

Respondent Concho Rural Water Corporation

Policy Revision 2 (September 2002)

Case ID No. 41199

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101215853

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(j)

Violation Description Failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system. Specifically, the Respondent constructed the Green Oaks pump station comprised of a ground storage tank, two booster pumps, a pressure tank, and associated appurtenances without first notifying the Executive Director.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%
Matrix Notes: 100% of the rule requirement was not met.				

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 29

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$385

Violation Final Penalty Total \$125

This violation Final Assessed Penalty (adjusted for limits) \$125

Economic Benefit Worksheet

Respondent Concho Rural Water Corporation
Case ID No. 41199
Reg. Ent. Reference No. RN101215853
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)	\$5,000	25-Jan-2011	1-Mar-2012	1.10	\$18	\$366	\$385
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 notify the Executive Director and provide plans and specifications for the addition of the ground storage tank, two booster pumps, pressure tank, and associated appurtenances, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$385

Screening Date 23-Feb-2011

Docket No. 2011-0294-PWS-E

PCW

Respondent Concho Rural Water Corporation

Policy Revision 2 (September 2002)

Case ID No. 41199

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101215853

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.43(e)

Violation Description

Failed to provide an intruder-resistant fence or lockable building for all potable water storage tanks and pressure maintenance facilities. Specifically, at the time of the investigation, it was documented that the ground storage tank and pressure tank at the Green Oaks pump station were enclosed within an approximately four-foot high fence, topped with a single strand of barbed wire.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to protect the ground storage tank, pressure tank, and booster pumps with an intruder-resistant fence could leave the Facility vulnerable to damage from trespassers, which could result in consumers being exposed to significant amounts of contaminants, which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

22 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the investigation, January 25, 2011, to the date of compliance, February 16, 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes The Respondent achieved compliance on February 16, 2011.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

Economic Benefit Worksheet

Respondent Concho Rural Water Corporation
Case ID No. 41199
Reg. Ent. Reference No. RN101215853
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)	\$2,000	25-Jan-2011	16-Feb-2011	0.06	\$0	\$8	\$8
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to provide intruder-resistant fencing at the Green Oaks pump station, calculated from the investigation date 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

\$2,000

TOTAL

\$8

Screening Date 23-Feb-2011

Docket No. 2011-0294-PWS-E

PCW

Respondent Concho Rural Water Corporation

Policy Revision 2 (September 2002)

Case ID No. 41199

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101215853

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 3

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

Violation Description

Failed to post a legible sign at each production, treatment and storage Facility that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted. Specifically, at the time of the investigation, there was no sign posted at the Green Oaks pump station.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

23 Number of violation days

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes The Respondent achieved compliance on February 17, 2011.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$115

This violation Final Assessed Penalty (adjusted for limits) \$115

Economic Benefit Worksheet

Respondent Concho Rural Water Corporation
Case ID No. 41199
Reg. Ent. Reference No. RN101215853
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)	\$100	25-Jan-2011	17-Feb-2011	0.06	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to create and post a sign at the Green Oaks pump station, calculated from the investigation date 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

\$100

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600656995 Concho Rural Water Corporation Classification: Rating:
Regulated Entity: RN101215853 CONCHO RURAL WATER THE OAKS Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
WATER LICENSING LICENSE 2260093
Location: U.S. HIGHWAY 277 BETWEEN THE INTERSECTIONS OF U.S. HIGHWAY 277 AND FARM-TO-MARKET
ROAD 584 AND U.S. HIGHWAY 277 AND FARM-TO-MARKET ROAD 2335, TOM GREEN COUNTY, TEXAS
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: February 22, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 22, 2006 to February 22, 2011
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.
Effective Date: 02/05/2007 ADMINORDER 2006-0041-PWS-E
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)
Description: Failure to wait for approval from the TCEQ prior to constructing a significant addition to the system's pressure maintenance facilities.
- 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 02/16/2007 (540605)
2 04/01/2007 (555257)
3 07/14/2009 (762072)
4 11/03/2009 (777338)
5 02/15/2011 (886768)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 11/03/2009 (777338) CN600656995
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence at the Caprock Pump Station.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)
Description: Failure to exclude livestock at least 50 feet from two wells.
- 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
CONCHO RURAL WATER
CORPORATION
RN101215853**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0294-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 Concho Rural Water Corporation ("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 along U.S. Highway 277 between the intersections of U.S. Highway 277 and Farm-to-Market Road 584 and U.S. Highway 277 and Farm-to-Market Road 2335, Tom Green County, Texas (the "Facility") that has approximately 226 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 or about February 20, 2011.
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 Three Hundred Fifty-Five Dollars (\$355) is assessed by the Commission in settlement of the violations alleged in Section II

- ("Allegations"). The Respondent has paid Two Hundred Eighty-Four Dollars (\$284) of the administrative penalty and Seventy-One Dollars (\$71) 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 February 15, 2011, the Respondent's engineer submitted "as-built" plans and specifications for the Green Oaks pump station;
 - b. On February 16, 2011, the Respondent installed an intruder-resistant fence at the Green Oaks pump station; and
 - c. On February 17, 2011, the Respondent posted an ownership sign at the Green Oaks pump station.
 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 notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system, in violation of 30 TEX. ADMIN. CODE § 290.39(j), as documented during an investigation conducted on January 25, 2011.

2. Failed to provide an intruder-resistant fence or lockable building for all potable water storage tanks and pressure maintenance facilities, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during an investigation conducted on January 25, 2011.
3. Failed to post a legible sign at each production, treatment and storage Facility that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t), as documented during an investigation conducted on January 25, 2011.

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: Concho Rural Water Corporation, Docket No. 2011-0294-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the "as-built" plans and specifications for the Green Oaks pump station within 15 days after the date of such requests, or by any other deadline specified in writing.
 - b. Within 60 days after the effective date of this Agreed Order, obtain Commission approval for use of the Green Oaks pump station.
 - c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
San Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.
6. 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.

7. 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

Joan Szellies
For the Executive Director

Date 6/2/2011

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.

Ben Wiese
Signature

4-12-11
Date

Ben Wiese
Name (Printed or typed)
Authorized Representative of
Concho Rural Water Corporation

President
Title

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