

Executive Summary – Enforcement Matter – Case No. 41856
Christopher W. Duncan d/b/a Lakeside Water Company
RN103778247
Docket No. 2011-0970-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
28654 South U.S. Highway 69, Zavalla, Angelina County

Type of Operation:
public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$3,320 (2010-1371-PWS-E)
Past-Due Fees:	\$371.63 Account No. 90030104
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: November 18, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$330
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:	\$330

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Docket No. 2011-0970-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 10 - 17, 2011; June 15, 2011
Date(s) of NOV(s): N/A
Date(s) of NOE(s): May 17, 2011

Violation Information

1. Failed to operate the disinfection equipment to maintain a free chlorine residual of 0.2 mg/L throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4)].
2. Failed to pay all annual PHS fees for fiscal years 2003, 2004 and 2010, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90030104 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Immediately, begin operating the disinfection equipment to maintain a minimum free chlorine residual of 0.2 mg/L throughout the distribution system at all times.
2. Within 30 days, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90030104.
3. Submit written certification to demonstrate compliance:
 - a. Within 30 days for Technical Requirement No.1
 - b. Within 45 days for Technical Requirement No. 2

Litigation Information

Date Petition(s) Filed: September 14, 2011
Date(s) Green Card(s) Signed: September 16, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

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

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

TCEQ Regional Contact: Ronald Hebert, Beaumont Regional Office, (409) 898-3838

Respondent: Christopher W. Duncan, Lakeside Water Company, 28654 South U.S. Highway 69, Zavalla, Texas 75980-4650

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-May-2011	Screening	31-May-2011	EPA Due	
	PCW	31-May-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	Christopher W. Duncan dba Lakeside Water Company					
Reg. Ent. Ref. No.	RN103778247					
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	41856	No. of Violations	2			
Docket No.	2011-0970-PWS-E	Order Type	1660			
Media Program(s)	Public Water Supply	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Andrea Linson			
		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	\$200
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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	12.0% Enhancement	Subtotals 2, 3, & 7	\$24
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Notes	Enhancement due to six dissimilar NOV's.
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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	\$106	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$100	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$224
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OTHER FACTORS AS JUSTICE MAY REQUIRE	47.3%	Adjustment	\$106
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement for the recovery of avoided costs associated with Violation No. 1.
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Final Penalty Amount	\$330
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$330
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$330
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Screening Date 31-May-2011

Docket No. 2011-0970-PWS-E

PCW

Respondent Christopher W. Duncan dba Lakeside Water Comp

Policy Revision 2 (September 2002)

Case ID No. 41856

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103778247

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

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	6	12%
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) 12%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to six dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 31-May-2011

Docket No. 2011-0970-PWS-E

PCW

Respondent Christopher W. Duncan dba Lakeside Water Company

Policy Revision 2 (September 2002)

Case ID No. 41856

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103778247

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(A) and 290.110(b)(4)

Violation Description Failed to operate the disinfection equipment to maintain a free chlorine residual of 0.2 milligrams per liter ("mg/L") throughout the distribution system at all times. Specifically, a field test conducted on March 10, 2011 at 199 Rayburn Lane indicated a free chlorine residual of 0.14 mg/L, and a field test conducted on March 17, 2011, at the same location revealed a free chlorine residual of 0.02 and 0.07.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to maintain proper levels of disinfection could result in the delivery of a significant amount of contaminated water to the public which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$200

Two single events are recommended.

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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$330

This violation Final Assessed Penalty (adjusted for limits) \$330

Economic Benefit Worksheet

Respondent Christopher W. Duncan dba Lakeside Water Company
Case ID No. 41856
Req. Ent. Reference No. RN103778247
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				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

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]	\$100	10-Mar-2011	31-May-2011	1.14	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for additional oversight and maintenance to ensure disinfection equipment is operating properly to maintain adequate chlorine residuals, calculated from the investigation date to the screening date.

Approx. Cost of Compliance \$100

TOTAL \$106

Screening Date 31-May-2011

Docket No. 2011-0970-PWS-E

PCW

Respondent Christopher W. Duncan dba Lakeside Water Company

Policy Revision 2 (September 2002)

Case ID No. 41856

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103778247

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.51(b) and Tex. Water Code § 5.702

Violation Description Failed to pay all annual Public Health Service fees, for fiscal years 2003, 2004 and 2010, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90030104.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, and sub-columns for Before NOV and NOV to EDPRP/Settlement Offer.

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Christopher W. Duncan dba Lakeside Water Company
Case ID No. 41856
Req. Ent. Reference No. RN103778247
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
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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				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

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN603581182 CHRISTOPHER W DUNCAN Classification: Rating:
Regulated Entity: RN103778247 LAKESIDE WATER COMPANY Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0030104
Location: 28654 SOUTH UNITED STATES HIGHWAY 69, ANGELINA COUNTY, TEXAS
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: May 31, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 31, 2006 to May 31, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:

Name: Andrea Linson Phone: 512-239-1482

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

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 12/02/2009 (779296)
- 2 02/23/2010 (790360)
- 3 10/28/2010 (871947)
- 4 11/03/2010 (872399)
- 5 11/03/2010 (872406)
- 6 11/03/2010 (872411)
- 7 11/03/2010 (872413)
- 8 11/19/2010 (872963)

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

Date: 05/03/2010 (871947) CN603581182

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 03/2010. Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 03/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/10/2010 (872399) CN603581182

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 04/2010. Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 04/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/06/2010 (872406) CN603581182

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 05/2010. Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 05/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/23/2010 (872411)

CN603581182

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 06/2010. Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 06/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 08/31/2010 (872413)

CN603581182

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 07/2010. Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 07/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/10/2010 (879612)

CN603581182

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
Description: Failure to flush all dead-end mains at monthly intervals.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)
Description: Failure to maintain a record indicating the amount of chemicals used weekly to treat the water.

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
CHRISTOPHER W. DUNCAN
D/B/A LAKESIDE WATER
COMPANY;
RN103778247**

**§
§
§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0970-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. WATER CODE ch. 5, 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 Christopher W. Duncan d/b/a Lakeside Water Company ("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 28654 South U.S. Highway 69 in Zavalla, Angelina County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 17 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted from March 10, 2011 through March 17, 2011, a TCEQ Beaumont Regional Office investigator documented that Respondent failed to operate the disinfection equipment to maintain a free chlorine residual of 0.2 milligrams per liter ("mg/L") throughout the distribution system at all times. Specifically, a field test conducted on March 10, 2011 at 199 Rayburn Lane in Zavalla, Angelina County, Texas, indicated a free chlorine residual of 0.14 mg/L, and a field test conducted on March 17, 2011 at the same location revealed a free chlorine residual of 0.02 mg/L and 0.07 mg/L.
3. During a record review conducted on June 15, 2011, a TCEQ Central Office staff member documented that Respondent violated TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(b), by failing to pay all annual Public Health Service ("PHS") fees for fiscal years 2003, 2004 and 2010, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90030104.
4. Respondent received notice of the violation in Finding of Fact No. 2 on or about May 22, 2011. Respondent received notice of the violation in Finding of Fact No. 3 on or about September 16, 2011.

5. 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 Christopher W. Duncan d/b/a Lakeside Water Company" (the "EDPRP") in the TCEQ Chief Clerk's office on September 14, 2011.
6. By letter dated September 14, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on September 16, 2011, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
1. As evidenced by Finding of Fact No. 2, Respondent failed to operate the disinfection equipment to maintain a free chlorine residual of 0.2 mg/L throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4).
2. As evidenced by Finding of Fact No. 3, Respondent failed to pay all annual PHS fees for fiscal years 2003, 2004 and 2010, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90030104, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(b).
3. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. 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.
6. An administrative penalty in the amount of three hundred thirty dollars (\$330.00) 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.

7. 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 three hundred thirty dollars (\$330.00) 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: Christopher W. Duncan d/b/a Lakeside Water Company; Docket No. 2011-0970-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. Immediately upon the effective date of this Order, Respondent shall begin operating the disinfection equipment to maintain a minimum free chlorine residual of 0.2 mg/L throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.110.
 - b. Within 15 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.
 - c. Within 30 days after the effective date of this Order, Respondent shall submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90030104, in accordance with 30 TEX. ADMIN. CODE § 290.51. The payment shall be sent with the notation "Re: Christopher W. Duncan d/b/a Lakeside Water Company, FA Account No. 90030104" 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

- d. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.c.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 certifications and supporting 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:

Ronald Hebert, Water Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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 KARI L. GILBRETH

STATE OF TEXAS

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§
§

COUNTY OF TRAVIS

"My name is Kari L. Gilbreth. 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 Christopher W. Duncan d/b/a Lakeside Water Company" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 14, 2011.

The EDPRP was mailed to Respondent's last known address on September 14, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on September 16, 2011, as evidenced by the signature on the card.

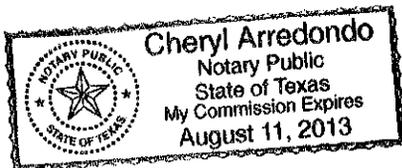
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

Kari L. Gilbreth

Kari L. Gilbreth, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 18th day of October, A.D. 2011.



Cheryl Arredondo
Notary Signature