

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43240  
McMullen County Water Control and Improvement District No. 2  
RN101398808  
Docket No. 2012-0030-PWS-E

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

N/A

**Location(s) Where Violation(s) Occurred:**

end of Park Road 8, north of Highway 72, Calliham, McMullen County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** August 3, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,365

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$1,365

**Compliance History Classifications:**

Person/CN –N/A

Site/RN –N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** December 15, 2011

**Date(s) of NOV(s):** June 30, 2008; May 27, 2011

**Date(s) of NOE(s):** December 16, 2011

**Violation Information**

1. Failed to obtain the approval of the Executive Director prior to the installation of more than three pressure tanks at one site [30 TEX. ADMIN. CODE § 290.43(d)(9)].
2. Failed to inspect the ground storage tanks (“GSTs”) annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].
3. Failed to inspect the pressure tanks annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].
4. Failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service [30 TEX. ADMIN. CODE § 290.46(n)(3)].
5. Failed to completely develop a chemical and microbiological monitoring plan identifying all sampling locations, describing the sampling frequency, and specifying the analytical procedures and laboratories that the public water system will use to comply with monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Conduct the annual inspections of the Facility’s four GSTs;
  - b. Conduct the annual inspections of the Facility’s four pressure tanks;
  - c. Update the chemical and microbiological monitoring plan to ensure that it identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements; and
  - d. Develop a record keeping system to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well shall be kept on file for as long as the well remains in service.
2. Within 90 days, ensure that there are no more than three pressure tanks installed or obtain approval from the Executive Director for the excess pressure tank.
3. Submit written certification to demonstrate compliance:
  - a. Within 45 days for Technical Requirement No. 1; and
  - b. Within 105 days for Technical Requirement No. 2.

**Litigation Information**

**Date Petition(s) Filed:** June 1, 2012

**Date Green Card(s) Signed:** June 5, 2012

**Date Answer(s) Filed:** N/A

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43240**  
**McMullen County Water Control and Improvement District No. 2**  
**RN101398808**  
**Docket No. 2012-0030-PWS-E**

**Contact Information**

**TCEQ Attorneys:** Mike Fishburn, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Scott Humphrey, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Bridgett Lee, Enforcement Division, (512) 239-2565

**TCEQ Regional Contact:** Rose Luna-Pirtle, Laredo Regional Office, (956) 753-4052

**Respondent:** Richard Warren, President, McMullen County Water Control and Improvement District No. 2, 199 Recreation Road 8, Calliham, Texas 78007-2501

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-Dec-2011	<b>Screening</b>	29-Dec-2011	<b>EPA Due</b>	
	<b>PCW</b>	11-May-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	McMullen County Water Control and Improvement District No. 2
<b>Reg. Ent. Ref. No.</b>	RN101398808
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	43240	<b>No. of Violations</b>	5
<b>Docket No.</b>	2012-0030-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Bridgett Lee
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,050
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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.

<b>Compliance History</b>	30.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$315
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<b>Notes</b>	Enhancement for two NOVs with same/similar violations and one agreed order with a denial of liability.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$456	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,373	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,365
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$1,365
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,365
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$1,365
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**Screening Date** 29-Dec-2011

**Docket No.** 2012-0030-PWS-E

**PCW**

**Respondent** McMullen County Water Control and Improvement District No. 2

*Policy Revision 2 (September 2002)*

**Case ID No.** 43240

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101398808

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Bridgett Lee

### 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> )	2	10%
	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)** 30%

**>> 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 two NOVs with same/similar violations and one agreed order with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 30%

Screening Date 29-Dec-2011

Docket No. 2012-0030-PWS-E

PCW

Respondent McMullen County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 43240

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101398808

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(d)(9)

Violation Description Failed to obtain approval of the Executive Director prior to the installation of more than three pressure tanks at one site. Specifically, at the time of the record review, four pressure tanks were observed serving the transfer pumps at the McMullen County Water Control and Improvement District No. 2 Facility.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

An excess of three pressure tanks at one site can cause the Facility to be vulnerable to pressure problems and customers of the Facility could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 14 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 record review date, December 15, 2011, to the date of case screening, December 29, 2011.

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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

## Economic Benefit Worksheet

**Respondent** McMullen County Water Control and Improvement District No. 2  
**Case ID No.** 43240  
**Req. Ent. Reference No.** RN101398808  
**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)	\$500	29-Mar-2011	31-Jul-2012	1.34	\$2	\$45	\$47
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 submit a request for review and obtain Executive Director approval of the one extra tank in the McMullen County Water Control and Improvement District No. 2 pressure plane, calculated from the first date of the investigation when the violation was first documented 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

\$500

**TOTAL**

\$47

Screening Date 29-Dec-2011

Docket No. 2012-0030-PWS-E

PCW

Respondent McMullen County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 43240

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101398808

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 2

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

Violation Description Failed to inspect the ground storage tanks ("GSTs") annually. Specifically, at the time of the record review, an annual inspection had not been conducted on the four GSTs at the Facility.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

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

Matrix Notes Complete failure to perform an inspection of the storage tanks could result in non-detection of a tank defect that causes loss of integrity which could expose customers of the Facility to significant amounts of contaminants that would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4 Number of violation days 14

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. 'x' is marked for 'single event'.

Violation Base Penalty \$400

Four single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A. 'x' is marked for 'N/A'.

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$180

Violation Final Penalty Total \$520

This violation Final Assessed Penalty (adjusted for limits) \$520

## Economic Benefit Worksheet

**Respondent** McMullen County Water Control and Improvement District No. 2  
**Case ID No.** 43240  
**Req. Ent. Reference No.** RN101398808  
**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				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]	\$164	29-Mar-2010	29-Mar-2011	1.92	\$16	\$164	\$180
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to perform an annual GST inspection (\$41 per tank), calculated for the 12 months prior to the first date of the investigation when the violation was first documented.

Approx. Cost of Compliance \$164

**TOTAL** \$180

Screening Date 29-Dec-2011

Docket No. 2012-0030-PWS-E

PCW

Respondent McMullen County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 43240

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101398808

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 3

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

Violation Description Failed to inspect the pressure tanks annually. Specifically, at the time of the record review, an annual inspection had not been conducted on the four pressure tanks at the Facility.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

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

Matrix Notes Failure to inspect the pressure tanks on an annual basis could cause non-detection of defects and could expose customers of the Facility to a significant amount of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4 14 Number of violation days

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$400

Four single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$180

Violation Final Penalty Total \$520

This violation Final Assessed Penalty (adjusted for limits) \$520

## Economic Benefit Worksheet

**Respondent** McMullen County Water Control and Improvement District No. 2  
**Case ID No.** 43240  
**Req. Ent. Reference No.** RN101398808  
**Media Violation No.** Public Water Supply  
 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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

### 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]	\$164	29-Mar-2010	29-Mar-2011	1.92	\$16	\$164	\$180
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct an annual pressure tank inspection (\$41 per tank) calculated for the 12-month period prior to the date of the investigation when the violation was documented.

Approx. Cost of Compliance \$164

**TOTAL** \$180

Screening Date 29-Dec-2011

Docket No. 2012-0030-PWS-E

PCW

Respondent McMullen County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 43240

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101398808

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3)

Violation Description Failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 14 Number of violation days

Table for marking frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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 \$47

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

## Economic Benefit Worksheet

**Respondent** McMullen County Water Control and Improvement District No. 2  
**Case ID No.** 43240  
**Req. Ent. Reference No.** RN101398808  
**Media Violation No.** Public Water Supply  
 4

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)	\$500	29-Mar-2011	31-Jul-2012	1.34	\$2	\$45	\$47
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 obtain the required well completion data, calculated from the first date of the investigation when the violation was first documented 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

\$500

**TOTAL**

\$47

Screening Date 29-Dec-2011

Docket No. 2012-0030-PWS-E

PCW

Respondent McMullen County Water Control and Improvement District No. 2

Policy Revision 2 (September 2002)

Case ID No. 43240

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101398808

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description Failed to completely develop a chemical and microbiological monitoring plan identifying all sampling locations, describing the sampling frequency, and specifying the analytical procedures and laboratories that the public water system will use to comply with monitoring requirements. Specifically, at the time of the record review, an incomplete monitoring plan, that only included bacteriological sampling information and a map of the sample sites, was available for review.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (5%).

Matrix Notes Between 30% and 70% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 14

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$65

This violation Final Assessed Penalty (adjusted for limits) \$65

## Economic Benefit Worksheet

**Respondent** McMullen County Water Control and Improvement District No. 2  
**Case ID No.** 43240  
**Req. Ent. Reference No.** RN101398808  
**Media** Public Water Supply  
**Violation No.** 5

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	29-Mar-2011	31-Jul-2012	1.34	\$3	n/a	\$3
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 develop a complete chemical and microbiological monitoring plan, calculated from the first date of the investigation when the violation was first documented 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

\$45

**TOTAL**

\$3

# Compliance History

Customer/Respondent/Owner-Operator:	CN600737225	McMullen County Water Control and Improvement District No. 2	Classification:	Rating:
Regulated Entity:	RN101398808	MCMULLEN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT No. 2	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		1560001
	WATER LICENSING	LICENSE		1560001
Location:	END OF PARK RD 8 N OF HWY 72, CALLIHAM, MCMULLEN COUNTY, TX, 78007			
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	December 22, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 22, 2006 to December 22, 2011			

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

Name: Bridgett Lee Phone: (512) 239-2565

### 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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: 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: 10/18/2009 ADMINORDER 2009-0125-PWS-E
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
- Description: Failure to provide a proper concrete sealing block for the well.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)
- Description: Failure to have a liquid level indicator located at the tank site for all water storage tanks.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)
- Description: Failure to provide an easily readable pressure gauge for the pressure tank.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
- Description: Failure to maintain/make records available upon request at the time of the investigation.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
- Description: Failure to adopt a plumbing ordinance, regulations, or customer service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
- Description: Failure to conduct customer service inspections when required.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
- Description: Failure to flush dead end mains on a monthly basis.
- Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
- Description: Failure to ensure good general appearance of the system's facilities.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
- Description: Failed to perform an annual inspection of the Facility's ground storage tanks.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
 Description: Failure to maintain plans and maps as required.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(p)(2)  
 Description: Failure to annually provide the Executive Director a written list of operators employed by the system.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
 Description: Failure to maintain ownership signs for the system as required.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121  
 Description: Failure to maintain a monitoring plan for the system.

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 | 07/15/2007 | (645283) |
| 2 | 10/01/2007 | (645918) |
| 3 | 05/30/2008 | (654921) |
| 4 | 01/09/2009 | (722155) |
| 5 | 05/27/2011 | (921823) |
| 6 | 12/16/2011 | (974923) |

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

**Date: 05/30/2008 (654921) CN600737225** Classification: Minor  
 Self Report? NO  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)  
 Description: Failure to provide a proper concrete sealing block for the well.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
 Description: Failure to have a liquid level indicator located at the tank site for all water storage tanks.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)  
 Description: Failure to provide an easily readable pressure gauge for the pressure tank.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
 Description: Failure to maintain the minimum required disinfectant residual in each finished water storage tank.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)  
 Description: Failure to employ a properly licensed operator as required.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)  
 Description: Failure to maintain/make records available upon request at the time of the investigation.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)  
 Description: Failure to adopt a plumbing ordinance, regulations, or customer service agreement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(j)		
Description:	Failure to conduct customer service inspections when required.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(l)		
Description:	Failure to flush dead end mains on a monthly basis.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to ensure good general appearance of the system's facilities.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A) 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)		
Description:	Failed to perform an annual inspection of the Facility's ground storage tanks.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to maintain plans and maps as required.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(p)(2)		
Description:	Failure to annually provide the Executive Director a written list of operators employed by the system.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(t)		
Description:	Failure to maintain ownership signs for the system as required.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121		
Description:	Failure to maintain a monitoring plan for the system.		
<b>Date:</b>	<b>05/27/2011</b>	<b>(921823)</b>	<b>CN600737225</b>
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to conduct annual tank inspections.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(3)		
Description:	Failure to maintain copies of well completion data on file for as long as the well remains in service.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.121(b)		
Description:	Failure to completely develop the chemical and microbiological monitoring plan.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(d)(9)		
Description:	Failure to obtain approval of the executive director prior to installation of more than three pressure tanks at one site.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MCMULLEN COUNTY WATER  
CONTROL AND IMPROVEMENT  
DISTRICT NO. 2;  
RN101398808**

§  
§  
§  
§  
§  
§  
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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2012-0030-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is McMullen County Water Control and Improvement District No. 2 ("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 the end of Park Road 8 north of Highway 72 in Calliham, McMullen County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 268 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 a record review conducted on December 15, 2011, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to obtain the approval of the Executive Director prior to the installation of more than three pressure tanks at one site. Specifically, four pressure tanks were observed serving the transfer pumps at the Facility;
  - b. Failed to inspect the ground storage tanks ("GSTs") annually. Specifically, an annual inspection had not been conducted on the four GSTs at the Facility;
  - c. Failed to inspect the pressure tanks annually. Specifically, an annual inspection had not been conducted on the four pressure tanks at the Facility;
  - d. Failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service; and

- e. Failed to completely develop a chemical and microbiological monitoring plan identifying all sampling locations, describing the sampling frequency, and specifying the analytical procedures and laboratories that the public water system will use to comply with monitoring requirements. Specifically, an incomplete monitoring plan that included only bacteriological sampling information and a map of the sample sites was available for review.
3. Respondent received notice of the violations on or about December 21, 2011.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of McMullen County Water Control and Improvement District No. 2" (the "EDPRP") in the TCEQ Chief Clerk's office on June 1, 2012.
5. By letter dated June 1, 2012, 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 June 5, 2012, as evidenced by the signature on the card.
6. 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. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to obtain the approval of the Executive Director prior to the installation of more than three pressure tanks at one site, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(9).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to inspect the GSTs annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to inspect the pressure tanks annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to completely develop a chemical and microbiological monitoring plan identifying all sampling locations, describing the sampling frequency, and specifying the analytical procedures and

laboratories that the public water system will use to comply with monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).

7. As evidenced by Findings of Fact Nos. 4 and 5, 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).
8. As evidenced by Finding of Fact No. 6, 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.
9. 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.
10. An administrative penalty in the amount of one thousand three hundred sixty-five dollars (\$1,365.00) 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.
11. 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 one thousand three hundred sixty-five dollars (\$1,365.00) 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: McMullen County Water Control and Improvement District No. 2; Docket No. 2012-0030-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Conduct the annual inspections of the Facility's four GSTs, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - ii. Conduct the annual inspections of the Facility's four pressure tanks, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - iii. Update the chemical and microbiological monitoring plan to ensure that it identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in accordance with 30 TEX. ADMIN. CODE § 290.121; and
    - iv. Develop a record keeping system to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well shall be kept on file for as long as the well remains in service, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.a.
  - c. Within 90 days after the effective date of this Order, Respondent shall ensure that there are no more than three pressure tanks installed or obtain approval from the Executive Director for the excess pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.43.
  - d. Within 105 days after the effective date of this Order, Respondent shall submit written certification 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:

Elston Johnson, Public Drinking Water Program, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

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 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

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For the Commission

**AFFIDAVIT OF STEVEN M. FISHBURN**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

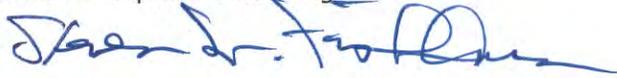
§

"My name is Steven M. Fishburn. 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 McMullen County Water Control and Improvement District No. 2" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 1, 2012.

The EDPRP was mailed to Respondent's last known address on June 1, 2012, 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 June 5, 2012, as evidenced by the signature on the card.

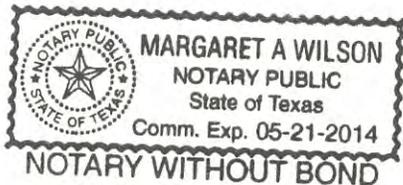
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Steven M. Fishburn, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 5<sup>th</sup> day of JULY, A.D. 2012.



Notary Signature