

**Executive Summary – Enforcement Matter – Case No. 43966
CASTLE WATER, INC.
RN101283679
Docket No. 2016-0071-PWS-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Horseshoe Bend Water System, 2308 Lipan Highway, near Granbury, Hood 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: July 1, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$485

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$485

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("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: \$7

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 12 through August 26, 2015 and January 8, 2016

Date(s) of NOE(s): December 16, 2015

Executive Summary – Enforcement Matter – Case No. 43966
CASTLE WATER, INC.
RN101283679
Docket No. 2016-0071-PWS-E

Violation Information

1. Failed to provide an all-weather access road to well sites [30 TEX. ADMIN. CODE § 290.41(c)(3)(P) and TCEQ Agreed Order Docket No. 2013-1956-PWS-E, Ordering Provision No. 2.c.].
2. Failed to provide a minimum well capacity of at least 0.44 gallons per minute (“gpm”) per connection, as required by the alternative capacity requirement approved by the Executive Director on October 2, 2001 [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2013-1956-PWS-E, Ordering Provision No. 2.e.].
3. Failed to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 91840002 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91840002;
- b. Within 90 days, provide an all-weather access road to each well site, including but not limited to Well No. 11;
- c. Within 105 days, submit written certification to demonstrate compliance with b.;
- d. Within 180 days, provide a minimum well capacity of 0.44 gpm per connection as required by the alternative capacity requirement approved by the Executive Director, or obtain Commission approval of a different alternative capacity requirement; and
- e. Within 195 days, submit written certification to demonstrate compliance with d.

Executive Summary – Enforcement Matter – Case No. 43966
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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: Steven Hall, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2569; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548
TCEQ SEP Coordinator: N/A
Respondent: Butch Hardie, President, CASTLE WATER, INC., 2401 Callender Road Suite 105, Mansfield, Texas 76063
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

DATES	Assigned	4-Jan-2016	Screening	8-Jan-2016	EPA Due	
	PCW	14-Jan-2016				

RESPONDENT/FACILITY INFORMATION	
Respondent	CASTLE WATER, INC.
Reg. Ent. Ref. No.	RN101283679
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	43966	No. of Violations	3
Docket No.	2016-0071-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steven Hall
		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	\$330
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	45.0% Adjustment	Subtotals 2, 3, & 7	\$148
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Notes: Enhancement for one agreed order with a denial of liability and one agreed order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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	\$6,162
Estimated Cost of Compliance	\$37,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$478
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$478
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$485
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$485
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Screening Date 8-Jan-2016

Docket No. 2016-0071-PWS-E

PCW

Respondent CASTLE WATER, INC.

Policy Revision 4 (April 2014)

Case ID No. 43966

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101283679

Media [Statute] Public Water Supply

Enf. Coordinator Steven Hall

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with a denial of liability and one agreed order without a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 45%

Screening Date 8-Jan-2016

Docket No. 2016-0071-PWS-E

PCW

Respondent CASTLE WATER, INC.

Policy Revision 4 (April 2014)

Case ID No. 43966

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101283679

Media [Statute] Public Water Supply

Enf. Coordinator Steven Hall

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(P) and TCEQ Agreed Order Docket No. 2013-1956-PWS-E, Ordering Provision No. 2.c.

Violation Description Failed to provide an all-weather access road to well sites. Specifically, no documentation was submitted to demonstrate that an all-weather access road was provided for accessing Well No. 11.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				3.0%
	Potential			x	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Failure to provide an all-weather access road may make it difficult for the operator to access the well to maintain or operate the Facility during heavy or sustained rainfall events or in emergency situations. This could cause customers of the Facility to be exposed to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$970

\$30

Violation Events

Number of Violation Events 1 502 Number of violation days

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

Violation Base Penalty \$30

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/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 \$30

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$383 Violation Final Penalty Total \$44

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

Economic Benefit Worksheet

Respondent CASTLE WATER, INC.
Case ID No. 43966
Reg. Ent. Reference No. RN101283679
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,500	25-Aug-2014	31-Oct-2016	2.19	\$18	\$364	\$383
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide an all-weather access road to Well No. 11, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1956-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$383

Screening Date 8-Jan-2016

Docket No. 2016-0071-PWS-E

PCW

Respondent CASTLE WATER, INC.

Policy Revision 4 (April 2014)

Case ID No. 43966

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101283679

Media [Statute] Public Water Supply

Enf. Coordinator Steven Hall

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(i), Tex. Health & Safety Code § 341.0315(c), and TCEQ Agreed Order Docket No. 2013-1956-PWS-E, Ordering Provision No. 2.e.

Violation Description

Failed to provide a minimum well capacity of at least 0.44 gallons per minute ("gpm") per connection, as required by the alternative capacity requirement approved by the Executive Director on October 2, 2001. Specifically, the Facility, which has 498 connections, should be providing a total well capacity of 219 gpm. The Facility provides a total well capacity of 130 gpm, which is a 40% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide the required minimum well capacity could result in low pressure or outages, exposing customers of the Facility to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 6

502 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$300

Six quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1956-PWS-E, August 25, 2014, to the date of screening, January 8, 2016.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,779

Violation Final Penalty Total \$435

This violation Final Assessed Penalty (adjusted for limits) \$435

Economic Benefit Worksheet

Respondent CASTLE WATER, INC.
Case ID No. 43966
Reg. Ent. Reference No. RN101283679
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$35,000	25-Aug-2014	2-Jan-2017	2.36	\$275	\$5,504	\$5,779
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 a well capacity of 0.44 gpm per connection, calculated from the effective date of TCEQ Agreed Order Docket No. 2013-1956-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$35,000

TOTAL

\$5,779

Screening Date 8-Jan-2016

Docket No. 2016-0071-PWS-E

PCW

Respondent CASTLE WATER, INC.

Policy Revision 4 (April 2014)

Case ID No. 43966

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101283679

Media [Statute] Public Water Supply

Enf. Coordinator Steven Hall

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description Failed to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 91840002 for Fiscal Years 2014 and 2015.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events

Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

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

	Before NOE/NOV	NOE/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 \$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 CASTLE WATER, INC.

Case ID No. 43966

Reg. Ent. Reference No. RN101283679

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
<small>No commas or \$</small>							

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

Not applicable.

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

Not applicable.

Approx. Cost of Compliance

\$0

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604051037, RN101283679, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN604051037, CASTLE WATER, INC.

Classification: NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101283679, HORSESHOE BEND WATER SYSTEM **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 2308 LIPAN HIGHWAY NEAR GRANBURY, HOOD COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1840002

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: January 06, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 06, 2011 to January 06, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Steven Hall

Phone: (512) 239-2569

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 11/11/2012 ADMINORDER 2012-0787-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Description: Failure to perform annual inspections on each of the system's ground storage tanks.

EIC C4 MIN(3)(D)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(P)

Description: Failed to provide an all-weather access road to well sites, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(P), as documented during an investigation conducted July 26, 2011 and a record review conducted on February 28, 2012. Specifically, it was documented that well no. 11 is in a remote location with an unpaved road, without gravel, and also has the potential to flood at a dry creek bed crossing.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to meet the water system's minimum production capacity requirements.

EIC B19c(9) MOD(2)(G)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failed to inspect the pressure tanks annually. Specifically, it was documented that tank inspections of the Facility's six pressure tanks had not been conducted in the last twelve months.

2 Effective Date: 08/25/2014 ADMINORDER 2013-1956-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Rqmt Prov: O.P. 2.a.ii, 2.b, and 2.f ORDER

Description: Failure to inspect the pressure tanks annually, as documented during an investigation conducted July 26, 2011 and a record review conducted on February 28, 2012. Specifically, it was documented that tank inspections of the Facility's five GSTs had not been conducted in the last twelve months.

Failure to comply with Agreed Order Docket No. 2012-0787-PWS-E.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(P)

Rqmt Prov: O.P. 2.c, 2.d, and 2.f ORDER

Description: Failure to provide an all-weather access road to well sites, as documented during an investigation conducted July 26, 2011 and a record review conducted on February 28, 2012. Specifically, it was documented that well no. 11 is in a remote location with an unpaved road, without gravel, and also has the potential to flood at a dry creek bed crossing.

Failure to comply with Agreed Order Docket No. 2012-0787-PWS-E.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(i)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Rqmt Prov: O.P. 2.e and 2.f ORDER

Description: Failure to provide a minimum well capacity of at least 0.44 gallons per minute ("gpm") per connection as required by the alternative capacity requirement approved by the Executive Director, as documented during an investigation conducted on July 26, 2011 and a record review conducted on February 28, 2012.

Failure to comply with Agreed Order Docket No. 2012-0787-PWS-E.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)

Rqmt Prov: O.P. 2.a.i, 2.b, and 2.f ORDER

Description: Failure to inspect the ground storage tanks ("GSTs") annually, as documented during an investigation conducted July 26, 2011 and a record review conducted on February 28, 2012. Specifically, it was documented that tank inspections of the Facility's five GSTs had not been conducted in the last twelve months.

Failure to comply with Agreed Order Docket No. 2012-0787-PWS-E.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 February 26, 2014 (1144206)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CASTLE WATER, INC.
RN101283679**

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

**AGREED ORDER
DOCKET NO. 2016-0071-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CASTLE WATER, INC. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 2308 Lipan Highway near Granbury, Hood County, Texas (the "Facility") that has approximately 498 service connections and serves at least 25 people per day for at least 60 days per year.
2. During an investigation conducted from August 12, 2015 through August 26, 2015, TCEQ staff documented that the Respondent did not submit documentation to demonstrate that an all-weather access road was provided for accessing Well No. 11.
3. During an investigation conducted from August 12, 2015 through August 26, 2015, TCEQ staff documented that the Facility, which has 498 connections, did not provide a total well capacity of 219 gallons per minute ("gpm"). The Facility provides a total well capacity of 130 gpm, which is a 40% deficiency.
4. During a record review conducted on January 8, 2016, TCEQ staff documented that the Respondent did not pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 91840002 for Fiscal Years 2014 and 2015.
5. The Respondent received notice of the violations on December 21, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide an all-weather access road to well sites, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(P) and TCEQ Agreed Order Docket No. 2013-1956-PWS-E, Ordering Provision No. 2.c.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide a minimum well capacity of at least 0.44 gpm per connection, as required by the alternative capacity requirement approved by the Executive Director on October 2, 2001, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i), TEX. HEALTH & SAFETY CODE § 341.0315(c), and TCEQ Agreed Order Docket No. 2013-1956-PWS-E, Ordering Provision No. 2.e.
4. As evidenced by Findings of Fact No. 4, the Respondent failed to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 91840002, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code 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 Four Hundred Eighty-Five Dollars (\$485) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Four Hundred Eighty-Five Dollar (\$485) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Four Hundred Eighty-Five Dollars (\$485) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: CASTLE WATER, INC., Docket No. 2016-0071-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91840002. The payment shall be submitted with the notation "Horseshoe Bend Water System, Account No. 91840002" to the address provided in Ordering Provision No. 1, above.
 - b. Within 90 days after the effective date of this Agreed Order, provide an all-weather access road to each well site, including but not limited to Well No. 11, in accordance with 30 TEX. ADMIN. CODE § 290.41.
 - c. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.

- d. Within 180 days after the effective date of the Agreed Order, provide a minimum well capacity of 0.44 gpm per connection as required by the alternative capacity requirement approved by the Executive Director, or obtain Commission approval of a different alternative capacity requirement pursuant to 30 TEX. ADMIN. CODE § 290.45(g).
- e. Within 195 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.d. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Ronald Manire Jr

For the Executive Director

9/29/16

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of CASTLE WATER, INC. I am authorized to agree to the attached Agreed Order on behalf of CASTLE WATER, INC., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, CASTLE WATER, INC. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Butch Hardie

Signature

6-8-16

Date

Butch Hardie

Name (Printed or typed)
Authorized Representative of
CASTLE WATER, INC.

PRESIDENT

Title

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