EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1029-PWS-E TCEQ ID: RN101437861 CASE NO.: 39898 RESPONDENT NAME: Brookeland Fresh Water Supply District

		· · · · · · · · · · · · · · · · · · ·
ORDER TYPE:		
X 1660 AGREED ORDER	_FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
_AMENDED ORDER	EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
X PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	_OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
three miles west of State Highway 96, Jas TYPE OF OPERATION: Public water 8 SMALL BUSINESS: Yes Yes Yes OTHER SIGNIFICANT MATTERS: Tregarding this facility location. INTERESTED PARTIES: No one other COMMENTS RECEIVED: The Texas Interest of the Inter	supply X No There are no complaints. There is no record of a rethan the ED and the Respondent has expresse Register comment period expired on December	additional pending enforcement actions and an interest in this matter. 13, 2010. No comments were received. ivision, Enforcement Team 2, MC R-13, 495 strict, P.O. Box 5350, Sam Rayburn,

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION

Type of Investigation:

- Complaint
- X Routine
- Enforcement Follow-up
- ___ Records Review

Date(s) of Complaints Relating to

this Case: None

Date of Investigation Relating to this Case: April 1, 2010

Date of NOV/NOE Relating to this Case: May 12, 2010 (NOE)

Background Facts: This was a routine investigation.

WATER

- 1) Failed to provide sanitary control easements that cover the land within 150 feet of the well or obtain Executive Director approval for a substitute [30 Tex. Admin. Code § 290.41(c)(1)(F)].
- 2) Failed to ensure that the proper backflow prevention device or air gap is installed at all locations where an actual or potential contamination hazard exists [30 Tex. Admin. Code § 290.44(h)(1)(A)].
- 3) Failed to maintain records of the Facility's backflow prevention device programs [30 Tex. Admin. Code § 290.46(f)(3)(B)(vi)].
- 4) Failed to provide a well production capacity of 0.6 gallons per minute ("gpm") per connnection [30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code § 341.0315(a)(1)].

PENALTY CONSIDERATIONS

Total Assessed: \$3,242

Total Deferred: \$648 X Expedited Settlement

__Financial Inability to Pay

SEP Conditional Offset: \$0

Total Paid to General Revenue: \$2,594

Compliance History Classification: Person/CN – Average Site/RN – N/A

Major Source: X Yes No

Applicable Penalty Policy: September 2002

CORRECTIVE ACTIONS TAKEN/REQUIRED

Corrective Actions Taken:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. On May 24, 2010, ensured that no direct connection exists between the public drinking water supply and the live bait tank at the bait and tackle store;
- b. On June 4, 2010, provided a record of the Facility's backflow prevention test conducted on the reduced pressure principle backflow prevention assembly installed at the Twin Dikes Park RV dump station;
- c. On June 25, 2010, received conditional approval from the TCEQ to replace the broken well pump on Well No. 2 with a new variable speed pump which increases the total well production capacity for Well Nos. 1 and 2 to 177 gpm, which is in excess of the 0.6 gpm per connection required for the 137 connections; and
- d. On June 28, 2010, ensured that no direct connection exists between the public drinking water supply and the Sam Rayburn Marina lift station.

Ordering Provisions:

The Order will require the Respondent to:

- a. Within 90 days after the effective date of this Agreed Order, obtain sanitary control easements, or a Commission-approved substitute that covers the land within 150 feet of the well; and
- b. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including a copy of the sanitary control easement or Commission-approved substitute to demonstrate compliance with Ordering Provision a.

Additional ID No(s).: Public Water Supply ID No. 1210012

Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 DATES Assigned 17-May-2010 PCW 15-Sep-2010 Screening 11-Jun-2010 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Brookeland Fresh Water Supply District Reg. Ent. Ref. No. RN101437861 Major/Minor Source Major Facility/Site Region 10-Beaumont CASE INFORMATION ** No. of Violations 4 Enf./Case ID No. 39898 Order Type 1660 Docket No. 2010-1029-PWS-E Media Program(s) Public Water Supply Government/Non-Profit Yes Enf. Coordinator Rebecca Clausewitz Multi-Media EC's Team Enforcement Team 2 \$1,000 Admin. Penalty \$ Limit Minimum \$50 Maximum Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) 238 Subrotal 1 \$3,360 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. 5.0% Enhancement Subtotals 2, 3, & 7 \$168 Compliance History The enhancement is due to one prior Notice of Violation (NOV) containing violations that are the same as or similar to the violations in Notes the current enforcement action. 0.0% Enriancement Subtotal 4 \$0 Culpability No The Respondent does not meet the culpability criteria. Notes \$326 Good Faith Effort to Comply Total Adjustments Subtotal 5 0,0% Enhancement Subtotal 6 \$0 Economic Benefit Total EB Amounts *Capped at the Total EB \$ Amount \$412 Approx, Cost of Compliance \$3,202 SUM OF SUBTOTALS 1.7 Final Subtotal \$0 Adjustment OTHER FACTORS AS JUSTICE MAY REQUIRE Reduces or enhances the Final Subtotal by the Indicated percentage Notes \$3,202 Final Penalty Amount \$3,242 Final Assessed Penalty STATUTORY LIMIT ADJUSTMENT DEFERRAL -\$648 20.0% Reduction Adjustment Reduces the Final Assessed Penalty by the Indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

\$2,594

Notes

PAYABLE PENALTY

Docket No. 2010-1029-PWS-E

Respondent Brookeland Fresh Water Supply District

Case ID No. 39898

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101437861

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

Component	Number of	nter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1 :	5%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	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	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	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%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
	Letters notifying the executive director of an intended audit conducted under the Texas		
	Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of	O	0%
Audits	audits for which notices were submitted)		
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Plea	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Ourici .	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 P	ercentage (Su	ıbtotal 2)
Violator⊧(Su	btotal3)	Turk or regulation from	
No	Adjustment P	ercentage (Su	ıbtotal 3)
ance History	Person Classification (Subtotal 7)		THE KILLS
Average P	erformer Adjustment P	ercentage (Su	ıbtotal 7) [
ance History	Summary		i Tri i i i i i i i i i i i i i i i i i
Compliance History Notes	The enhancement is due to one prior Notice of Violation (NOV) containing violations that are similar to the violations in the current enforcement action.	the same as or	
	Total Adjustment Dersenters	/Subtotale	ان ح ورو
	Total Adjustment Percentage	(SUDIDIAIS A	:, 3, 0: //

Screening Date	11-Jun-2010 Docket No. 2010-1029-PWS-E	Pew
	Brookeland Fresh Water Supply District	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN101437861	
	Public Water Supply	
Enf. Coordinator		2. O. B. C.
Violation Number		- Marie Insulina
Rule Cite(s)	30 Tex. Admin, Code § 290.41(c)(4)(F)	
Violation Description	Failed to provide sanitary control easements that cover the land within 150 feet of or obtain Executive Director approval for a substitute. Specifically, at the time of investigation, it was documented that the well is located within a greenbalt right and within 150 feet of a residence, both of which are not owned by the water sy	of the of-way
	Base	Penalty \$1,000
>> Environmental, Property a	id Human Health Matrix	22 23 24 25 25 25 25 25 25 25 25 25 25 25 25 25
2 or year of the order of the o	Harm	y) made at
Release Actua	Major Moderate Minor	
Potentia	The state of the s	
Section of the Control of the Contro	Programment is the filter of the control of the con	
>>Programmatic Matrix		
Falsification	Major Moderate Minor Percent 0%	
File Control of the C		,
Matrix Notes Failure to have the well and e	sanitary control easements surrounding the well site could result in contaminants of specific posing the customers of the Facility to insignificant amounts of contaminants, which not exceed levels that are protective of human health.	entering: n would
		0000
	Adjustment	\$900]
		\$100
Violation Events		Million Commission Annual Annu
Number of V	iolation Events 1 Number of violation days	Company of the second
mark only one with an x	daily weekly monithly quarterly semiannual annual single-event x	Penalty \$100
	One single event is recommended for the one well site.	page na proposition had the
Good Faith Efforts to Comply	0,0% Reduction	\$0
	Befare NOV NOV to EDPRP/Sattlement	· · · · · · · · · · · · · · · · · · ·
	Extraordinary	
and the state of t	Ordinary Condition to the Condition to t	
	N/A x (mark with x) The Respondent does not meet the good faith-criteria for this violation.	
	Violation	Subtotal \$100
Economic Benefit (EB) for thi	s violation Statutory Limit Tes	A second section of the companion of the
_vonomo: wonencless (not the		
Estimat	ed EB Amount \$3 Violation Final Pena	alty Total \$105
	This violation Final Assessed Penalty (adjusted for	or limits) \$105
The control of the co	A CONTROL OF THE PROPERTY OF T	

Reg. Ent. Reference No Media Violation No	Public Water S	upply.				Percent Interest	Years of Depreciation
Violation No			Trist Tring no dispect (fill difficility) Trist (film of the product of the produ	77	HARRINE NO SERVICE NA S	5.0	1
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	155 C15 C2 C55 C5			777			
Delayed Costs		or and the second se	and a latest the said			egeti il si seriori si disersi. Gelgaria, si sita di periori	
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0.
Other (as needed)	\$40	1-Apr-2010	30-Apr-2011	1.08	\$0	\$3	\$3
Engineering/construction				0.00	\$0	\$0	\$0
Land	11 11 11	ET ATA ATA ATA		0,00	\$0	n/a	\$0
Record Keeping System	V			0.00	\$0	ec ∓n/a	\$0
Training/Sampling			Clair State File	0,00	: \$0	- m/a	\$0
Remediation/Disposal		le in el care		0.00	\$0	in/a	\$0
Permit Costs				0.00	\$0	a iliin/a	\$0
· · · · · · · · · · · · · · · · · ·						The second secon	dio.
Other (as needed)	The delayed or	st includes the est	imated amount to	0.00 oass an	\$0 ordinance which o	covers the land within	\$0 n 150 feet of th
Notes for DELAYED costs	.v	vell, calculated from	n the date of the in	pass an ivestigati	ordinance which on to the estimate	covers the land withing date of compliance	n:150 feet of th
Notes for DELAYED costs Avoided Costs	.v	vell, calculated from	n the date of the in	pass an ivestigati intering	ordinance which on to the estimate	covers the land within ad date of compliance	n 150 feet of th e. costs)
Notes for DELAYED costs Avoided Costs Disposal	.v	vell, calculated from	n the date of the in	pass an ivestigati intering 0.00	ordinance which on to the estimate	covers the land withing date of compliance one time avoided of	n 150 feet of th e. costs)
Notes for DELAYED costs Avoided Costs Disposal Personnel	.v	vell, calculated from	n the date of the in	pass an ivestigati	ordinance which on to the estimate litem (except for \$0.	covers the land withing date of compliance one-time avoided to \$0	n 150 feet of th ee. ;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	.v	vell, calculated from	n the date of the in	pass an ivestigati	ordinance which on to the estimate litem (except for \$0\$0\$0\$0\$0\$0\$0\$0.	covers the land withing date of compliance one-time avoided one-time avoid	n 150 feet of th ie. ;osts); \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Olsposal Personnel Inspection/Reporting/Sampling Supplies/equipment	.v	vell, calculated from	n the date of the in	pass an ivestigati	ordinance which on to the estimate item (except for \$0\$0\$0\$0\$0\$0\$0\$0.	covers the land withing date of compliance one-time avoided of \$0 \$0 \$0 \$0 \$0	n 150 feet of th ie. ;0sts); \$0 \$0 \$0 \$0
Notes for DELAYED costs AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	.v	vell, calculated from	n the date of the in	pass an ivestigation of the control	ordinance which conto the estimate litem (except for \$0, \$0, \$0, \$0, \$0, \$0, \$0, \$0, \$0, \$0,	covers the land withing date of compilance one-time avoided of \$0 \$0 \$0 \$0 \$0	n 150 feet of thee. sosts) \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	.v	vell, calculated from	n the date of the in	pass an ivestigati	ordinance which on to the estimate item (except for \$0\$0\$0\$0\$0\$0\$0\$0.	covers the land withing date of compliance one-time avoided of \$0 \$0 \$0 \$0 \$0	n 150 feet of th ie. ;0sts); \$0 \$0 \$0 \$0

Screening Date	11-Jun-2010 Docket No 2010-1029-PWS-E	PCW
	to the state of th	sion 2 (September 2002)
Case ID No.		evision October 30, 2008
Reg. Ent. Reference No.	RN101437861	1
Media [Statute]		
Enf. Coordinator	Rebecca Clausewitz	į
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code,§ 290.44(h)(1)(A)	
Vlolation Description	Falled to ensure that the proper backflow prevention device or air gap is installed at all locations where an actual or potential contamination hazard exists. Specifically, at the time of the investigation, there was no evidence of backflow prevention devices or air gaps installed at the Sam Rayburn Marina lift station or at the bait and tackle store.	
	Base Penalty	\$1,000
>> Environmental, Property an	d Human Health Matrix	100
Section of the sectio	Harm	
Release Actual	Major Moderate Minor	
Potential	x Percent 50%	
, 5501105	the state of the s	
>>Programmatic Matrix		
Falsification	Major Moderate Minor	Place of the state
The Control of the Co	Percent 0%	
Lang 11 April on Section and Association (Association of Association of Associati		
Matrix Fallure to ha	ve backflow prevention devices or air gaps installed at all locations where contamination	s was a second
n nazaros exi	st may allow backflow and siphonage to occur, exposing the customers of the Facilty to mounts of contaminants which would exceed levels that are protective of human health.	on obvoku
Significance	Tigorita di ecitatificatio amicri accidi o cossi caste di si caste di processione	
	Adjustment \$500	
	Adjustment \$600	a. overa. ov
		\$500
		of tokening
Violation Events		a se prima
Number of Vic	olation Events 6. 71 Number of violation days	a.
	Manufacture de de consequence de la consequence della consequence	i i
	Profession State (Control of the Control of the Con	P : 6 6 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5
	The state of the s	continue (A.)
mark only one	monthly x ouarteriv Violation Base Penalty	\$3,000
with an x	quarterly Violation Base Penalty semiennual:	-
	A CONTROL OF THE CONT	a come nu
	single event	A PA PARAGE
		Mento come
Six monthly ev	ents are recommended (three monthly events per location), calculated from the date of the	
Table 1	Investigation, April 1, 2010; to the date of case screening, June 11, 2010.	Topolo and a second
I		2
Good Faith Efforts to Comply	10:0% Reduction	\$300
	Before NOV NOV to EDPRP/Settlement Offer	d comment for
	Extraordinary	a nervan ann
1	Ordinary X	***************************************
	N/A (mark with x)	***************************************
	Notes The Respondent achieved compliance with this violation as of June 28, 2010.	1
1	June 28, 2010.	
	Here the second	
	Violation Subtotal [\$2,700
Economic Benefit (EB) for this	violation Statutory Limit Test	
		TO MARKE THE THEORY OF THE PROPERTY OF THE PRO
Frottoning Belleur (FB) and alle		And the second s
	d EB Amount \$1 Violation Final Penalty Total	\$2,850
	And the state of t	\$2,850 \$2,850

Violation No.	RN101437861 Public Water S	lupply				Percent Interest	Years of Depreciation
violation ivo.				interesiyedir. Martiya		5.0	TANGLES CONT.
	Item Cost	Date Required	Final Date	Yrs ir	iterest Saved	Onetime Costs	EB Amoun
Item Description	No commas or \$				promise and the		
	ange natiga bay 110.			Barbot Ko	The second of th	gyddyngi, yr it egifyfdi	
De layed Costs Equipment	2 24 14 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1	At Security internation has been de-	1 0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$62	1-Apr-2010	28-Jun-2010	0.24	\$0	\$1	\$1
Engineering/construction	702	2010		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		Element de la compa		0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	(- 4			0.00	\$0	n/a	\$0
Notes for DELAYED costs	buotilion p.o.		date is the	date of cor	npliance.	ate of the investigation	
Avoided/Costs	- ANI	NUALIZE I11 avoide	ed costs before e	ntering ite	m (except for:	one-time avoided c	USIS
Avoided Costs Disposal	ANI	NUALIZE [1] avoide	ed costs before e	ntering ite	m (except for: \$0	one-time.avoided:0	\$0
	AN)	NUALIZE [1] avoide	ed costs before e				
Disposal		NUALIZE [1] avoide	ed costs before e	0.00	\$0	\$0	\$0
Disposal Personnel		NUALIZE [1] avoide	ed costs before e	0.00	\$0 \$0	\$0 \$0	\$0 \$0
Disposal Personnel nspection/Reporting/Sampling	ANI	NUALIZE [1] avoide	ed costs before e	0.00	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0
Disposat Personnet nspection/Reporting/Sampling Supplies/equipment	- ANI	NUALIZE [1] avoid	ed costs before:e	0.00 0.00 0.00	\$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0 \$0
Disposal Personnel nspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	ANI	NUALIZE [1] avoid	ed costs before e	0.00 0.00 0.00 0.00 0.00	\$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 \$0 \$0

Screening Date	11-Jun-2010 Docket No. 2010-1029-PWS-E	PCW
	Brookeland Fresh Water Supply District	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision October 30, 2008
Reg. Ent. Reference No.		
Media [Statute]		
Enf. Coordinator Violation Number	Rebecca Clausewitz	- Andrewson of
Rule Cite(s)		
``[30 Tex: Admin. Code § 290.46(f)(3)(B)(vi)	11. 14. 4 14. 14. 4
Violation Description	Failed to maintain records of the Facility's backflow prevention device program Specifically, on the date of the investigation, there were no test records for the red pressure principle backflow prevention assembly installed at the Twin Dikes Park R\ station.	uced
'		Penalty \$1,000
>> Environmental, Property an	o⊟uman:Health:Watrix Harm	
Release	Major Moderate Minor	
OR Actual		
Potential	Percent 0%	
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
	Percent 1%	
Matrix		
Notes	Less than 30% of the rule requirement was not met	
	and the state of t	
	Adjustment	\$990
	THE RESERVENCE OF THE PROPERTY	***
		\$10
Violation Events		CANCELLER CANADAMA CANCELLER CANADAMA CANCELLER CANADAMA
Number of V	plation Events 1 71 Number of violation days	
	dally weekly.	
	monthly	
mark only one with an x	quarterly Violation Base	Penalty \$10
	semiannual	
	annual	}
	single event x	
	One single event is recommended.	
L		
Good Faith Efforts to Comply	10.0% Reduction	\$1
Save and Energies to Southly	Before NOV NOV to EDPRP/Settlement Offer	91
	Extraordinary	
	Ordinary	
	N/A (merk with x)	
	Notes The Respondent achieved compliance with this violation as of June 4, 2010.	
	Violation S	Subtotal \$9
Economic Benefit (EB) for this	violation Statutory Limit Test	11/2
Estimate	d EB Amount \$0 Violation Final Penal	ty Total \$10
	<u> </u>	
	This violation Final Assessed Penalty (adjusted fo	r limits) \$50
L		***************************************

Respondent		conomic esh Water Supply I		בחוע)JICCL		
Case ID No.		san water auppry i	Jistiict				
Reg. Ent. Reference No.							
	Public Water S	upplu					Years of
Violation No.		шрріў				Percent Interest	
Violation No.	io Programa de la composition della composition	EU E	on a server of the length of t	julggradista	eliden juggaren oprenjekter koronore.		Depreciation
200 The 100 Th						5.0	1
	* Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	. No commas or \$				The state of the s		2 2 2 3
Delayed Costs			CONTRACTOR CONTRACTOR		Lander A. C. Commission of the		THE STATE OF STREET
Equipment	11	ara wasan 1911 yan	ate a exte	0.00	\$ D	\$0	\$0
Bulldings	ut i tri (a.)	A. A		0,00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	1.0			0.00	\$0	\$0	\$0
Land	ar and the same			0.00	\$0	Marketn/a its 41.	\$ 0
Record Keeping System	\$45	1-Apr-2010	4-Jun-2010	0.18	\$0	average n/a set a	\$0
Training/Sampling	31			0.00	\$0	e i de asin/a tueles.	\$0
Remediation/Disposal	<u> </u>			0,00	\$0	te ua enna e cana	\$0
Permit Costs	ll:		1:				
			<u> </u>	0.00	\$0	NAME OF TRANSPORT	\$0
Other (as needed)				0.00 a record-	\$0 keeping system fo	or the Twin Dikes Pa	\$0 ark RV dump
Other (as needed) Notes for DELAYED costs			sembly test record	0.00 a record-	\$0 keeping system for ated from the date	and the plant of the	\$0 ark RV dump
	station's back	rflow prevention as	sembly test record	0.00 a record- is, calcul compliance	\$0 keeping system for ated from the date ce.	or the Twin Dikes Pa	\$0 ark RV dump to the date of
Notes for DELAYED costs	station's back	rflow prevention as	sembly test record	o.oo a record- is, calcul compliand intering	\$0 keeping system for the date from the date ce. Item (except for \$0	or the Twin Dikes Pa e of the Investigation	\$0 ark RV dump to the date of
Notes for DELAYED costs Avoided Costs Disposal Personnel	station's back	rflow prevention as	sembly test record	0.00 a record- is, calcul compliand	\$0 keeping system fo ated from the date ce. Item (except for	or the Twin Dikes Pa e of the Investigation one-time avoided o	\$0 ark RV dump to the date of osts)
Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	station's back	rflow prevention as	sembly test record	a record- is, calcul compliand intering 0.00 0.00	\$0 keeping system for ated from the date ce. Item (except for \$0 \$0 \$0	nn/a on the Twin Dikes. Page of the Investigation one-time avoided c \$0 \$0 \$0	\$0 ark RV dump to the date of osts) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel inspection/Reporting/Sampling Suppiles/equipment	station's back	rflow prevention as	sembly test record	a record- is, calcul compliand intering 0.00 0.00 0.00	\$0 keeping system for aled from the data ce. Item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 ark RV dump to the date of osts) \$0 \$0 \$0 \$0
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Screening Date		No. , 2010-1029-PW\$-E	FROW
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Reg. Ent. Reference No	Diameter Control of the Control of t	PCV	Revision October 30, 2008
Processor association of a secretary and the contract of the c	Public Water Supply		
THE RESERVE OF THE PROPERTY OF	Rebecca Clausewitz		
Violation Numbe Rule Cite(s			1
riale state	30 Tex: Admin. Code § 290.45(b)(1)(C)(i) and Tex.	Health & Safety Code § 341 0315(a)(1)	}
Violation Description	Failed to provide a well production capacity of connection. Specifically, with 137 connections, a should be provided. On the date of the investigate capacity of 67 gpm, which is	minimum of 82 gpm of well production tion, the Facility had a well production	\$1,000
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OR Actual		Parant DERV	-
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	iate well production, the customers of the water syst		i de la compania del compania del compania de la compania del la compania de la c
Notes Outages whi	ch could result in a significant amount of contaminant exceed levels that are protective of hu		***************************************
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		Adjustment \$750]
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Number of '	/iolation Events 1 7	Number of violation days	
	daily		
mark only one with an x	weekly monthly quarterly x	Violation Base Penalty	\$250
	semlannual annual single event		
F			in
One quarte	ly event is recommended, calculated from the date of case screening, Jurie 11,		Vicinitation and American
Good Faith Efforts to Comply	10.0% Reduction		\$25
	Before NOV NOV to EDPRP/Settlemen	nt Offer	1
	Extraordinary	······································	
	Ordinary X N/A (mark with x)		
	Notes The Respondent achieved complication (1997) June 25, 2		
	D. Company of the Com	10-1-11 P. I. C. A.	6465
		Violation Subtotal	\$225
Economic Benefit (EB) for th	s violation	Statutory Limit Test	
Estima	ed EB Amount \$408	Violation Final Penalty Total	\$238
PRINCE CO.	This violation Final	Assessed Penalty (adjusted for limits)	\$238
			Access to the second se

Case ID No		esh Water Supply D	ristrict				
Reg. Ent. Reference No.	68						
The state of the s	Public Water S	upply				Percent Interest	Years of Depreciation
			263 487 (433) (463) (473)	Markaria. Santan		5.0	1
200.00	Item Cost	Date Required	Final Date	Yrs	Interest Saved	J	EB Amount
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Compliance History Report

Brookeland Fresh Water Classification: AVERAGE Rating: 1.73 Customer/Respondent/Owner-Operator: CN600624852 Supply District RN101437861 Forest Hills Water Supply Classification: Site Rating: Regulated Entity: PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1210012 ID Number(s): 1210012 LICENSE WATER LICENSING 4161 West Recreational Road 255, approximately 3 miles west of SH 96 in Jasper County, Location: TCEQ Region: **REGION 10 - BEAUMONT** May 26, 2010 Date Compliance History Prepared: Agency Decision Requiring Compliance History: Enforcement May 26, 2005 to May 26, 2010 Compliance Period: TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Rebecca Clausewitz (210) 403-4012 Name: Site Compliance History Components 1. Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a (known) change in ownership/operator of the site during the compliance period? No 3. If Yes, who is the current owner/operator? N/A 4. if Yes, who was/were the prior owner(s)/operator(s)? N/A .5. When did the change(s) in owner or operator occur? Components (Multimedia) for the Site: Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government. A. B. Any criminal convictions of the state of Texas and the federal government. C. Chronic excessive emissions events. The approval dates of investigations. (CCEDS Inv. Track. No.) D. 1 05/11/2006 (459262)2 12/15/2006 (532679)3 11/28/2007 (574149)4 05/12/2010 (801805)Written notices of violations (NOV). (CCEDS Inv. Track. No.) E. CN600624852 Date: 05/11/2006 (459262)Classification: Minor Self Report? 30 TAC Chapter 290, SubChapter D 290.46(I) Citation: Failure to flush all dead-end mains at least once a month. Description: Classification: Minor Self Report? NO 30 TAC Chapter 290, SubChapter D 290.46(v) Citation: Failure to all electrical wiring in conduit at well # 1. Description: Self Report? NO Classification: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(A)

> 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(i) Failure to meet this agency's "Minimum Water System Capacity Requirements" for well production.

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

Failure to have sample sites, which are representative of the water system.

Citation:

Citation:

Description:

Self Report?

Description:

Classification:

Moderate

Self Report? NO

Citation:

Classification: Moderate
30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(iv)
Failure to meet this agency's "Minimum Water System Capacity Requirements" for pressure tank capacity. Description:

Environmental audits. N/A F.

G, Type of environmental management systems (EMSs).

Voluntary on-site compliance assessment dates. Н.

Participation in a voluntary pollution reduction program. I.

Early compliance. N/A J.

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
BROOKELAND FRESH WATER	§	TEXAS COMMISSION ON
SUPPLY DISTRICT	§	
RN101437861	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2010-1029-PWS-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brookeland Fresh Water Supply District ("the Respondent") under the authority of Tex. Health & Safety Code ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a public water supply at 4161 West Recreational Road 255, approximately three miles west of State Highway 96 in Jasper County, Texas (the "Facility") that has approximately 137 service connections and serves at least 25 people per day for at least 60 days per year.
- 2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 17, 2010.
- 4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 5. An administrative penalty in the amount of Three Thousand Two Hundred Forty-Two Dollars (\$3,242) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Five Hundred Ninety-Four Dollars (\$2,594) of the administrative penalty and Six Hundred Forty-Eight Dollars (\$648) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to

- timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
- 6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On May 24, 2010, ensured that no direct connection exists between the public drinking water supply and the live bait tank at the bait and tackle store;
 - b. On June 4, 2010, provided a record of the Facility's backflow prevention test conducted on the reduced pressure principle backflow prevention assembly installed at the Twin Dikes Park RV dump station;
 - c. On June 25, 2010, received conditional approval from the TCEQ to replace the broken well pump on Well No. 2 with a new variable speed pump which increases the total well production capacity for Well Nos. 1 and 2 to 177 gallons per minute ("gpm"), which is in excess of the 0.6 gpm per connection required for the 137 connections; and
 - d. On June 28, 2010, ensured that no direct connection exists between the public drinking water supply and the Sam Rayburn Marina lift station.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to provide sanitary control easements that cover the land within 150 feet of the well or obtain Executive Director approval for a substitute, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on April 1, 2010.

- 2. Failed to ensure that the proper backflow prevention device or air gap is installed at all locations where an actual or potential contamination hazard exists, in violation of 30 Tex. Admin. Code § 290.44(h)(1)(A), as documented during an investigation conducted on April 1, 2010.
- 3. Failed to maintain records of the Facility's backflow prevention device programs, in violation of 30 Tex. Admin. Code § 290.46(f)(3)(B)(vi), as documented during an investigation conducted on April 1, 2010.
- 4. Failed to provide a well production capacity of 0.6 gpm per connnection, in violation of 30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code § 341.0315(a)(1), as documented during an investigation conducted on April 1, 2010.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brookeland Fresh Water Supply District, Docket No. 2010-1029-PWS-E" to:

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

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 90 days after the effective date of this Agreed Order, obtain sanitary control easements, or a Commission-approved substitute as delineated in 30 Tex. ADMIN. CODE § 290.41(c)(1)(F)(iv)(I) through (III), that covers the land within 150 feet of the well, in accordance with 30 Tex. ADMIN. CODE § 290.41; and
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including a copy of the sanitary control easement or Commission-approved substitute to demonstrate compliance with Ordering Provision No. 2.a. 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 Secton Manager Beaumont Regional Office Texas Commission on Environmental Quality 3870 Eastex Freeway Beaumont, Texas 77703-1830

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

Brookeland Fresh Water Supply District DOCKET NO. 2010-1029-PWS-E Page 5

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under Tex. Bus. Org. Code § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Executive Director Date
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.
 I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in: A negative impact on compliance history; Greater scrutiny of any permit applications submitted; Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency; Increased penalties in any future enforcement actions; Automatic referral to the Attorney General's Office of any future enforcement actions; and TCEQ seeking other relief as authorized by law. In addition, any falsification of any compliance documents may result in criminal prosecution.
10-14-10 Signature Date
Name (Printed or typed) Authorized Representative of Brookeland Fresh Water Supply District TRECTOF TO TOUS C

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