

Control Number: 46262



Item Number: 1

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DOCKET NO. **46262**

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PUBLIC UTILITY COMMISSION
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PETITION FOR AN ORDER §
APPOINTING A TEMPORARY §
MANAGER TO PEACH CREEK DAM §
AND LAKE CLUB, INC. PURSUANT §
TO TEX. WATER CODE ANN. §
13.4132 AND 16 TAC § 24.142 §
§

PUBLIC UTILITY COMMISSION

OF TEXAS

**COMMISSION STAFF'S PETITION FOR AN ORDER APPOINTING A TEMPORARY
MANAGER TO PEACH CREEK DAM AND LAKE CLUB AND NOTICE OF
OPPORTUNITY FOR A HEARING**

NOW COMES the Staff of the Public Utility Commission of Texas (Commission) and files this Petition (Petition) for an order appointing a temporary manager to Peach Creek Dam and Lake Club, Inc. (Peach Creek) holder of CCN 12574.¹

I. INTRODUCTION

For the reasons discussed below, a person should be appointed to temporarily manage and operate Peach Creek. In support of this Petition, the Commission Staff respectfully shows the following:

II. JURISDICTION AND LEGAL AUTHORITY

The Commission, after providing to the utility notice and an opportunity for a hearing, may authorize a willing person to temporarily manage and operate a utility if the utility has abandoned operations.² Texas Water Code § 13.412 (TWC) and 16 Texas Administrative Code § 24.142 (TAC) enumerate actions that constitute abandonment, including but not limited to “failure to adequately maintain facilities, resulting in potential health hazards.” A temporary manager appointed under TWC § 13.4132 and 16 TAC §§ 24.142 and 24.143, has the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate services to customers. This includes conducting required sampling and making necessary repairs.

16 TAC § 24.143 outlines the duties of the temporary manager and requires the temporary manager to post financial assurance with the commission, unless the executive director asks for a

¹ The area covered by this certificate is located in the City of Patton Village, approximately 19 miles southeast of downtown Conroe, Texas on U.S. Highway 59. See CCN and CCN Map (Attachment 1 and 2).

² TEX. WATER CODE ANN. §§ 13.4132 and 13.4132, and 16 TEX. ADMIN. CODE § 24.142.

waiver of the financial assurance or requests substitution of another means of collateral. Within 60 days of appointment, a temporary manager should make and return to the commission an inventory of all property received. Compensation for the temporary manager comes from the utility revenues and will be set by the commission at the time of appointment.³ The temporary manager shall collect the assets and carry on the business of the utility and shall use the revenues and assets of the utility in the best interest of the customers to ensure that continuous and adequate service is provided.⁴ The temporary manager is required to report to the commission on a monthly basis on the income; summary of improvements or repairs; and any other information required by the commission.⁵

Pursuant to the contested case provisions of the Tex. Gov't. Code Ann. § 2001.051 (Vernon 2016) (APA)⁶, a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, and to respond to and present evidence and argument on each issue involved in the case. If a hearing is not requested within 30 days after service of notice of an opportunity for hearing a default occurs.⁷ Upon default, the presiding officer may issue a default order, disposing of the proceeding without a hearing, in an informal basis.⁸

III. FACTUAL ALLEGATIONS

On July 5, 1991, Peach Creek was granted CCN No. 12574. Peach Creek is comprised of one public water system.⁹ The Texas Commission on Environmental Quality (TCEQ) uses the term public water system (PWS) to describe facilities used for providing potable water service to "at least 15 service connections or serve at least 25 individuals at least 60 days out of the year."¹⁰ A CCN may be comprised of a single or multiple PWSs. Peach Creek was owned by Harold Bradham.¹¹

Mr. Bradham intended to transfer the utility and CCN to the City of Patton Village (Patton Village). Patton Village and Mr. Bradham filed an application for transfer of the system on

³ 16 TAC § 24.143(f). This compensation agreement can be changed with the Commission's approval.

⁴ 16 TAC § 24.143(g)

⁵ 16 TAC § 24.143(h).

⁶ Administrative Procedure Act, TEX GOV'T CODE ANN. §§ 2001.001-.902 (Vernon 2016)(APA).

⁷ 16 TAC § 22.183.

⁸ APA § 2001.056 (4) and 16 TAC § 22.183.

⁹ PWS ID No. 1700064.

¹⁰ 30 TAC § 290.38(66)(Tex. Comm'n. Env'tl. Quality).

¹¹ *Application of Peach Creek Dam & Lake Club Water System and the City of Patton Village for Sale, Transfer or Merger of Facilities and Certificate of Convenience and Necessity in Montgomery County*, Docket 43132 (March 30, 2016).

September 16, 2014.¹² Patton Village assumed operation of the utility, employing an operator and obtaining a permit from the Lone Star Groundwater Conservation District for the well serving Peach Creek. Approval of the sale relied on a federal Housing and Urban Development (HUD) Grant administered by the Texas Department of Agriculture. In 2016, Patton Village learned that a recently redrawn flood map placed Peach Creek in a floodway. HUD rules and regulations prohibited the use of the grant on projects in a floodway. Without the grant, Patton Village could no longer meet the Commission's managerial, technical and managerial requirements to acquire the system. On March 24, 2016, Patton Village withdrew its application to acquire the system.

While the application was still pending for the transfer of Peach Creek to Patton Village, Mr. Bradham passed away. To ensure that customers did not experience an interruption in service, Patton Village continued to pay the electric bill and employ an operator for Peach Creek. The CCN remains in the name of Peach Creek. This current arrangement most likely violates the TWC. Additionally, the system remains in violation of TCEQ rules regarding capacity.¹³ The system is also suffering from leaks which are causing the well associated with the utility to overproduce placing its permit status with the Lone Star Ground Water Conservation District in jeopardy.

IV. RECOMMENDATION FOR APPOINTMENT OF A TEMPORARY MANAGER

The Commission should appoint a temporary manager of Peach Creek because the utility is currently without a properly authorized operator and is incapable of conducting the business of the utility and continuing to providing adequate service. The TCEQ enforcement actions support that Peach Creek failed to adequately maintain facilities resulting in potential health hazards meeting the threshold for abandonment pursuant to TWC § 13.412.¹⁴ Additionally, without a properly authorized operator, Peach Creek cannot collect rates and make the necessary improvements to the system. Without the improvements, the leaks on the system will continue to cause over production issues and may result in the well permit being canceled by the Lone Star Ground Water Conservation District.

Commission Staff recommends the commission appoint John Davis, owner of Benry Utility Services. Mr. Davis is the operator currently contracted by Patton Village to operate Peach

¹² *Id.*

¹³ *In The Matter of An Enforcement Action Concerning Peach Creek Dam & Lake Club; RN101193027*, TCEQ Docket No. 2010-1807-PWS-E, *Agreed Order* (March 7, 2012). See Attachment 3 for a copy of the *Agreed Order*.

¹⁴ *Id.*

Creek. His company operates five other water and waste water facilities in the area. Benry Utility Services is licensed by the TCEQ as a Water Operations Company.¹⁵ The company employs licensed B, C, and D operators for water and wastewater operations.

Appointing a temporary manager ensures that customers receive continuous and adequate service while the Commission processes and adjudicates other related petitions. Commission Staff is aware that the proposed temporary manager is interested in purchasing the system however the application process to transfer the system will take time. Commission Staff does not anticipate needing a receivership to transfer the assets for the Peach Creek as Mr. Bradham's heirs and Patton Village are willingly participating in this process to bring the utility into compliance.

V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC §§ 22.54 and 22.55 require Commission Staff to provide reasonable notice to persons affected by a proceeding in accordance with the APA. In order to proceed on a default basis, 16 TAC § 22.183 requires Commission Staff to provide notice by certified mail, return receipt requested, to a certificate holder's last known address in the Commission's records or to the person's registered agent for process on file with the Secretary of State.

In accordance with these provisions, Commission Staff will provide a copy of this petition by certified mail, return receipt requested, to Peach Creek's last known address in the Commission's records:

Peach Creek Dam and Lake Club, Inc.
P.O. Box 559
Splendora, Texas 77372

Commission Staff will also provide a copy of this petition by certified mail, return receipt requested, to Patton Village and Patton Village's attorney:

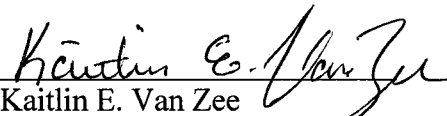
City of Patton Village
16940 Main Street
Splendora, Texas 77372

cc: Alan Petrov, Attorney for the City of Patton Village
JOHNSON PETROV LLP
2929 Allen Parkway, Suite 3150
Houston, TX 77019

¹⁵ See Attachment 4.

WHEREFORE, PREMISES CONSIDERED, the Commission Staff respectfully requests that the Commission grant Commission Staff's request to issue an order appointing a temporary manager.

Respectfully Submitted,



Kaitlin E. Van Zee
Attorney, Oversight and Enforcement Division
State Bar No. 24080099
(512) 936-7065 T
(512) 936-7268 F
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that on August 4, 2016, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Peach Creek Dam and Lake Club Inc. in the Commission's records and to the City of Patton Village:

Peach Creek Dam and Lake Club, Inc.'s Last Known Address in Commission Records:

Peach Creek Dam and Lake Club, Inc.

P.O. Box 559

Splendora, Texas 77372

Address for the City of Patton Village:

City of Patton Village

16940 Main Street

Splendora, Texas 77372

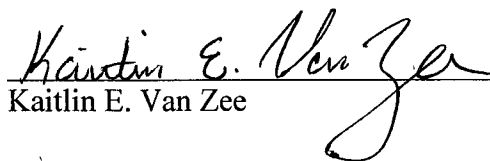
Attorney for the City of Patton Village:

Alan Petrov

JOHNSON PETROV LLP

2929 Allen Parkway, Suite 3150

Houston, TX 77019


Kaitlin E. Van Zee

Attachment 1

Certificate of Convenience and Necessity No.
12574

THE STATE OF TEXAS
TEXAS WATER COMMISSION TRAVIS



I hereby certify that this is a true and correct copy of a Texas Water Commission Document, the original of which is filed in the permanent records of the Commission.

Given under my hand and the seal of office on

JUL 05 1991

Gloria A. Vasquez

Gloria A. Vasquez, Chief Clerk
Texas Water Commission

CERTIFICATE OF CONVENIENCE AND NECESSITY

To Provide Water Service Under V.T.C.A., Water Code
and Texas Water Commission Substantive Rules

Certificate No. 12574

I. Certificate Holder:

Name: Peach Creek Dam and Lake Club, Inc.

Address: P. O. Box 559
Splendora, Texas 77372

II. General Description and Location of Service Area:

The area covered by this certificate is located approximately 19 miles southeast of downtown Conroe, Texas on U. S. Highway 59. The service area is generally bounded on the east by Peach Creek Lake, on the south and west by Peach Creek and on the north by U. S. Highway 59 in Montgomery County, Texas.

Dual certification over the entire area exists with the City of Patton Village, CCN No. 11193.

III. Certificate Maps:

The certificate holder is authorized to provide water service in the area identified on the Commission's official water service area map, WRS-170, maintained in the offices of the Texas Water Commission, 1700 North Congress, Austin, Texas with all attendant privileges and obligations.

This certificate is issued under Application No. 8655-C and subject to the rules and orders of the Commission, the laws of the State of Texas, conditions contained herein and may be revoked for violations thereof. The certificate is valid until amended or revoked by the Commission.

Issued Date: JUN 24 1991

ATTEST:

Mamie M. Black

John Hall
For the Commission

Attachment 2

Map of Certificate of Convenience and Necessity No. 12574

Attachment 3

Agreed Order in TCEQ Docket No. 2010-1807-
PWS-E

PWS/1700064/CO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PEACH CREEK DAM & LAKE CLUB;
RN101193027**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1807-PWS-E

I. JURISDICTION AND STIPULATIONS

At its MAR 07 2012 agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Peach Creek Dam & Lake Club ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns and operates a public water system located at 17370 South Lakeview Drive in Houston, Montgomery County, Texas (the "Facility"). The Facility provides water for human consumption, has 51 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. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eight thousand four hundred forty-nine dollars (\$8,449.00) is assessed by the Commission in settlement of the violations alleged in Section II. The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent qualifies for a deferral of all of the administrative penalty under TEX. WATER CODE § 7.034. Therefore, eight thousand four hundred forty-nine dollars (\$8,449.00) of the administrative penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including any payment schedule,

the Executive Director may require Respondent to pay all or part of the deferred administrative 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 Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondent submitted a chemical and microbiological monitoring plan on August 25, 2010 (Allegation 1.I.).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on August 17, 2010, a TCEQ Houston Regional Office Investigator documented that Respondent:
 - a. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c). With 51 service connections, the Facility must provide a total storage capacity of 10,200 gallons. However, the Facility provides no storage capacity, which is a 100% deficiency;
 - b. Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c). Specifically, the Facility has 51 service connections and must provide a total service pump capacity of 102 gpm. However, the Facility has no service pumps, which is a 100% deficiency;
 - c. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days using an approved test kit, in violation of 30 TEX. ADMIN. CODE §§ 290.110(d)(1)(C) and 290.110(c)(4)(A);
 - d. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Commission each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4). Specifically, a review of Facility records for the past 12 months indicated that Respondent did not submit the required DLQORs for the Facility;
 - e. Failed to provide an intruder-resistant fence to protect the Facility's well and pressure tank sites, in violation of 30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e). Specifically, the barbed wire on the fences surrounding the well and pressure tank sites were sagging;

- f. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 TEX. ADMIN. CODE § 290.46(i);
 - g. Failed to maintain an up-to-date map of the distribution system so that valves and mains may be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2). Specifically, no distribution system map was provided;
 - h. Failed to operate the Facility under the direct supervision of a water works operator who holds a Class "D" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a). Specifically, the Facility was operated by an operator whose Class "D" license expired on June 1, 2008;
 - i. Failed to conduct an annual inspection of the Facility's pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B);
 - j. Failed to obtain a sanitary control easement that covers the land within 150 feet of Well No. 2, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F);
 - k. Failed to provide the pressure tanks with a device to readily determine air-water-volume, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(3);
 - l. Failed to develop and maintain and make available for Commission review an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b); and
 - m. Failed to provide accurate metering devices at each service connection to provide water usage data, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(4). Specifically, the Facility has 35 meters installed but has 51 connections.
2. Respondent received notice of the violations on or about October 24, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

- 1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations that are not raised here.
- 2. Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, Respondent shall:
 - i. Submit an operating agreement between Respondent and Patton Village that shows that Patton Village has taken over all operations of the Facility and Respondent has ceased operating the Facility; and

- ii. Submit written certification that an Application for Sale, Transfer or Merger of a Retail Public Utility for the interconnection between Respondent and Patton Village has been submitted. A copy of the completed and submitted Application 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
Texas Commission on Environmental Quality
Abilene Regional Office
1977 Industrial Boulevard
Abilene, Texas 79602-7833

- b. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii.; and
- c. Within 365 days after the effective date of this Agreed Order, Respondent shall submit written certification, as described in Ordering Provision No. 2.e., below, that the interconnection with Patton Village has been completed. A copy of the letter approving the interconnection 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
Texas Commission on Environmental Quality
Abilene Regional Office
1977 Industrial Boulevard
Abilene, Texas 79602-7833

- d. Or, in lieu of Ordering Provisions Nos. 2.a. through 2.c.:
 - i. Within 10 days after the effective date of this Agreed Order, Respondent shall begin monitoring and recording the disinfectant residual at representative locations in the distribution system at least once every seven days, using the amperometric titration method, ferrous titration method, or a diethyl-p-phenylendiamine ("DPD") colorimetric method in accordance with 30 TEX. ADMIN. CODE § 290.110 (Allegation 1.c.).

- ii. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - A. Prepare and begin submitting DLQORs to the Commission each quarter by the tenth day of the month following the end of each quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Allegation 1.d.). The DLQORs shall be submitted to:

Public Drinking Water Section, MC 155
Texas Commission on Environmental Quality
Attn: DLQOR
P.O. Box 13087
Austin, Texas 78711-3087
 - B. Repair the sagging barbed wires on the fences surrounding the well and pressure tank sites so they are rendered intruder-resistant, in accordance with 30 TEX. ADMIN. CODE § 290.43 (Allegation 1.e.);
 - C. Commence operating the Facility under the direct supervision of a water works operator who holds a Class "D" or higher license, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.h.); and
 - D. Conduct an annual inspection of the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.i.);
- iii. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provisions Nos. 2.d.i. and 2.d.ii.
- iv. Within 60 days after the effective date of this Agreed Order, Respondent shall:
 - A. Develop and adopt an adequate plumbing ordinance, regulations, or service agreement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.f.);
 - B. Provide an up-to-date map of the distribution system that includes the locations of all mains and valves, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.g.); and
 - C. Install a device that readily determines the air-water-volume on the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.43 (Allegation 1.k.).
- v. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provision No. 2.d.iv.
- vi. Within 90 days after the effective date of this Agreed Order, Respondent shall obtain a sanitary control easement that covers the land within 150 feet of Well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.41 (Allegation 1.j.).

- vii. Within 180 days after the effective date of this Agreed Order, Respondent shall:
 - A. Provide a total storage tank capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Allegation No. 1.a.);
 - B. Provide two or more service pumps having a total capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Allegation No. 1.b.); and
 - C. Provide accurate metering devices at each service connection, in accordance with 30 TEX. ADMIN. CODE § 290.44 (Allegation No. 1.m.).
- viii. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provisions Nos. 2.d.vi. and 2.d.vii.
- e. The certifications required by these Ordering Provisions 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:

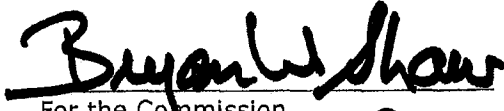
Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

- 3. All relief not expressly granted in this Agreed Order is denied.
- 4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

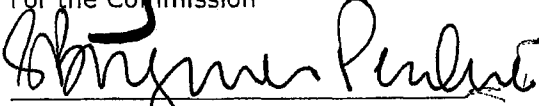
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against 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.
7. 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.
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



For the Commission



For the Executive Director

2/2/2012


Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Peach Creek Dam & Lake Club, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Harold Bradham, President
Peach Creek Dam & Lake Club

11/6/11

Date

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

March 13, 2012

CERTIFIED MAIL

Harold G. Bradham, President
Peach Creek Dam & Lake Club
6411 Woodbrook Lane
Houston, Texas 77008-6255

RE: Peach Creek Dam & Lake Club
TCEQ Docket No. 2010-1807-PWS-E; Registration No. 1700064
Agreed Order Assessing Administrative Penalties and Requiring Certain Action

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Enforcement Coordinator or the Staff Attorney. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3319.

Sincerely,

A handwritten signature in cursive script that reads "Bridget C. Bohac".

Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

cc: Epifanio Villareal, Enforcement Coordinator, TCEQ Enforcement Division
Stephanie J. Frazee, Staff Attorney, TCEQ Litigation Division
Steve Smith, Regional Contact, TCEQ Regional Office

Attachment 4

TCEQ License for Benry Utility Services LLC

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



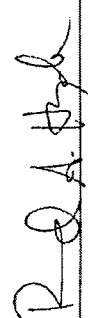
Be it known that

BENRY UTILITY SERVICES LLC

has fulfilled the requirements in accordance with the laws of the State of Texas for

WATER OPERATIONS COMPANY

Registration Number: WC00000211
Issue Date: 06/24/2016
Expiration Date: 06/24/2019



Executive Director
Texas Commission on Environmental Quality