



## Filing Receipt

**Received - 2021-08-02 09:41:51 AM**  
**Control Number - 52341**  
**ItemNumber - 3**

**DOCKET NO. 52341**

**APPLICATION OF PATTERSON  
PROFESSIONAL SERVICES, LLC  
FOR TEMPORARY RATES FOR A  
NONFUNCTIONING UTILITY**

**§ PUBLIC UTILITY COMMISSION  
§  
§ OF TEXAS  
§**

**ORDER NO. 1  
REQUIRING COMMENTS ON ADMINISTRATIVE COMPLETENESS, PROCESSING  
OF THE APPLICATION, AND PROPOSED PROCEDURAL SCHEDULE**

**I. Response to Staff RFI**

1. The legal name and all assumed names, if any, under which the applicant conducts business. If the applicant uses an assumed name, provide a currently valid certificate of assumed name.
  - Per the Emergency Order by TCEQ dated July 03, 2019, appointed Mark Patterson temporary manager. A copy of this order is attached. We are requesting the docket be restyled to reflect Mark Patterson not Patterson Professional Services as the filing party.
2. The form of business in Texas (e.g., corporation, partnership, sole proprietorship), Charter or Authorization number, date business was formed, and date change was made (if applicable).
  - The party in this case is Mark Patterson, temporary manager.
3. Legal name of parent company, if any, and a description of its primary business interests and the name of any companies affiliated with the applicant with which it does any business. Provide the state and date in which the parent company is registered. *(The Commission requires registration with the Secretary of State for all forms of business, except sole proprietorships.)*.
  - While Mr. Patterson is associated with Patterson Water Supply and Patterson Professional Services, this docket should reflect Mr. Patterson's status as Temporary Manager and not as president of the businesses.

Sincerely,

Temporary Manager

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Toby Baker, *Executive Director*



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

July 3, 2019

**Via First Class Mail, and Certified Mail, Return Receipt Requested,**

Wallace Hardie, Director  
CASTLE WATER, INC.  
4930 Little Road  
Arlington, Texas 76017  
Article No. 7017 1450 0002 1213 8239

Wallace Hardie, Registered Agent  
CASTLE WATER, INC.  
1848 Lone Star Road, Suite 125  
Mansfield, Texas 76063  
Article No. 7017 1450 0002 1213 8222

Wallace Hardie, Director  
CASTLE WATER, INC.  
P.O. Box 613  
Mansfield, Texas 76063  
Article No. 7017 1450 0002 1213 8215

Wallace Hardie, Director  
CASTLE WATER, INC.  
1030 East Highway 377, Suite 110 PMB  
272  
Granbury, Texas 76048  
Article No. 7017 1450 0002 1213 8192

Zach Allen, Owner  
CASTLE WATER, INC.  
P.O. Box 613  
Mansfield, Texas 76063  
Article No. 7017 1450 0002 1213  
8185

**Via Hand Delivery**

Horseshoe Bend Water System; RN101283679

Re: CASTLE WATER, INC.  
TCEQ Docket No. 2018-0923-UCR-E  
Notice of Emergency Order and of Hearing to Modify, Affirm, or Set Aside

Dear Mr. Allen, and Mr. Hardie:

On July 3, 2019, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued an Emergency Order pursuant to TEX. WATER CODE chs. 5, 13, and 26 and 30 TEX. ADMIN. CODE chs. 35, 291, and 307. The parties made the subject of this order is CASTLE WATER, INC. The Emergency Order appointed Mark Patterson as temporary manager of the public water system located in Weatherford, Parker County, Texas. The public water system is comprised of three water plants on four parcels of land; Parcel ID R000011734<sup>1</sup> and

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<sup>1</sup> Legal described by Parker County Appraisal District as "Subd: HORSESHOE BEND, LOT: 8, BLK: 020, ADDN: HORSESHOE BEND."

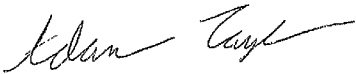
Parcel ID R000011733<sup>2</sup> ("Water Plant 1"), Parcel ID R000064857<sup>3</sup> ("Water Plant 2"), and Parcel ID R000060271<sup>4</sup> ("Water Plant 3"), collectively (the "Utility").

Pursuant to TEX. WATER CODE § 5.504 the Commission will consider whether to affirm, modify, or set aside the Emergency Order issued on June 19, 2019. Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on **August 28, 2019**. The Agenda begins at **9:30 a.m.** and will be held at **TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201 S, Austin, Texas**. The enclosed documentation is provided to you as a record of the materials that have been submitted to the Chief Clerk's Office and will be used in the Commission's Agenda process.

Additionally, please be advised that, pursuant to 30 TEX. ADMIN. CODE § 35.25(c), **at the August 28, 2019 Agenda meeting, you may request an evidentiary hearing on the issuance of the Emergency Order.**

If you have any questions, please contact the TCEQ Litigation Division at (512) 239-3400.

Sincerely,



Adam Taylor, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality  
[Adam.Taylor@tceq.texas.gov](mailto:Adam.Taylor@tceq.texas.gov)

Enclosures

cc: Brent Candler, Water Section Manager, Dallas/Fort Worth Regional Office  
Adriana Thomas, Receivership Coordinator  
Vic McWherter, Office of Public Interest Counsel  
Taylor Kilroy, Office of the Public Utility Commission  
Mark Patterson, Temporary Manager, P.O. Box 910, Collinsville, Texas  
76233-0910

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<sup>2</sup> Legal described by Parker County Appraisal District as "Subd: HORSESHOE BEND, LOT: 7, BLK: 020, ADDN: HORSESHOE BEND."

<sup>3</sup> Legal described by Parker County Appraisal District as "Acres: 2.000, Abst: 2223, Survey: I & G N R R CO."

<sup>4</sup> Legal described by Parker County Appraisal District as "Acres: 48.250, TR:, BLK:, SURV: GEORGE W WOOD."

**TCEQ DOCKET NO. 2019-0923-UCR-E**

<b>IN THE MATTER OF AN ENFORCEMENT ACTION AGAINST CASTLE WATER, INC.; RN101283679;</b>	<b>§ § § § § §</b>	<b>BEFORE THE  TEXAS COMMISSION ON  ENVIRONMENTAL QUALITY</b>
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**EMERGENCY ORDER  
APPOINTING A TEMPORARY MANAGER  
OF A WATER UTILITY**

On July 3, 2019, the Executive Director of the Texas Commission on Environmental Quality (the "Commission" or "TCEQ") issued this Emergency Order pursuant to TEX. WATER CODE chs. 5 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The parties made subject to this Emergency Order are CASTLE WATER, INC. ("Castle Water").

**I. FINDINGS OF FACT**

1. Castle Water owns and operates a public water system located in Weatherford, Parker County, Texas. The public water system is comprised of three water plants on four parcels of land; Parcel ID R000011734<sup>1</sup> and Parcel ID R000011733<sup>2</sup> ("Water Plant 1"), Parcel ID R000064857<sup>3</sup> ("Water Plant 2"), and Parcel ID R000060271<sup>4</sup> ("Water Plant 3"), collectively (the "Utility").
2. The Utility operates pursuant to Certificate of Convenience and Necessity No. 10263 ("CCN 10263"). (Exhibit A)
3. The Utility provides potable water service for compensation to approximately 520 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. As such, the Utility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).

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<sup>1</sup> Legal described by Parker County Appraisal District as "Subd: HORSESHOE BEND, LOT: 8, BLK: 020, ADDN: HORSESHOE BEND."

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<sup>3</sup> Legal described by Parker County Appraisal District as "Acres: 2.000, Abst: 2223, Survey: I & G N R R CO."

<sup>4</sup> Legal described by Parker County Appraisal District as "Acres: 48.250, TR:, BLK:, SURV: GEORGE W WOOD."

4. Commission records show that the last known mailing addresses for Castle Water are:

Wallace Hardie, Director  
CASTLE WATER, INC.  
P.O. Box 613  
Mansfield, Texas 76063

Wallace Hardie, Registered Agent  
CASTLE WATER, INC.  
1848 Lone Star Road, Suite 125  
Mansfield, Texas 76063

Wallace Hardie, Director  
CASTLE WATER, INC.  
P.O. Box 613  
Mansfield, Texas 76063

Wallace Hardie, Director  
CASTLE WATER, INC.  
4930 Little Road  
Arlington, Texas 76017

Wallace Hardie, Director  
CASTLE WATER, INC.  
1030 East Highway 377, Suite 110 PMB 272  
Granbury, Texas 76048

Zach Allen, Owner  
CASTLE WATER, INC.  
P.O. Box 613  
Mansfield, Texas 76063

5. On October 26, 2012, the Commission issued Agreed Order Docket No. 2012-0787-PWS-E against CASTLE WATER, INC. (Exhibit B).
6. On August 20, 2014, the Commission issued Agreed Order Docket No. 2013-1956-PWS-E against CASTLE WATER, INC. (Exhibit C).
7. On November 2, 2016, the Commission issued Agreed Order Docket No. 2016-0071-PWS-E against CASTLE WATER, INC. (Exhibit D).
8. On June 21, 2018, a TCEQ investigator conducted a compliance investigation at the Utility and documented multiple violations, including violations of the Agreed Orders. Specifically, Castle Water:
  - a. Failed to provide a minimum well capacity of 0.44 gallons per minute (gpm) per connection as required by the alternative capacity requirement approved by the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TCEQ Agreed Order Docket No.

2016-0071-PWS-E; and

- b. Failed to provide an all-weather access road to each well site, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(P) and TCEQ Agreed Order Docket No. 2016-0071-PWS-E.
9. On September 1, 2018, a TCEQ investigator conducted a compliance investigation at the Utility and documented that Castle Water failed to maintain the 42,000-gallon ground storage tank at Water Plant 1 free of leaks, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(6).
10. On September 30, 2018, a TCEQ investigator conducted a compliance investigation file review documented multiple violations. Specifically, Castle Water:
  - a. Failed to provide working well meters for Well No. 1 and Well No. 5, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N);
  - b. Failed to maintain a minimum pressure of 35 pounds per square inch (psi) throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(r); and
  - c. Failed to maintain the 42,000-gallon ground storage tank at Water Plant 1 free of leaks, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(6).
11. On November 2, 2018, TCEQ referred Castle Water to the Office of the Attorney General ("OAG") for civil enforcement including the appointment of a receiver.
12. On June 17, 2019, TCEQ received a complaint afterhours that the Utility was not providing water. On June 18, 2019, a TCEQ investigator contacted the complainant and confirmed the issues still exists. The investigator contacted Castle Water, who stated that the outage was caused by a faulty gate valve between Water Plant 1 and Water Plant 2. Castle Water stated they hired a contractor to replace the gate valve and the work would be completed by June 19, 2019.
13. On June 19, 2019, the investigator contacted Castle Water for an update. Castle Water stated that the contractor had started work but had quit before the work was completed. Castle Water stated they hired a different contractor to complete the work and the work would be completed by June 20, 2019.
14. On June 20, 2019, Parker County began supplying bottled water for affected customers of the Utility and as of June 24, 2019, Parker County confirmed that it would continue to supply bottle water for affected customers of the Utility.
15. On June 24, 2019, the investigator returned to the Utility and documented water pressure readings at 45 psi and free chlorine residual measured below

the regulatory minimum at 0.1 milligrams per liter ("mg/l").

16. On June 25, 2019, TCEQ contacted Castle Water for an update. Castle Water stated that the gate valve had been replaced.
17. On June 26, 2019, TCEQ received a complaint that the Utility was not providing water.
18. On June 27, 2019, a TCEQ investigator returned to the Utility and documented water pressure readings below the regulatory minimum at 15 psi and 17 psi and free chlorine residual measured at 2.0 mg/l. On that day, the investigator attempted to contact Castle Water about the water outage and did not receive a response.
19. On June 28, 2019, TCEQ received a complaint that the Utility was not providing water. TCEQ contacted Castle Water about the water outage and to request the information for the licensed operator Castle Water has employed for the Utility. TCEQ contact the operator to verify the information Castle Water provided but did not receive a response from the operator.
20. On July 1, 2019, TCEQ received several complaints that the Utility was not providing water. The investigator returned to the Utility and documented water pressure readings below the regulatory minimum at 8 psi and 31 psi and free chlorine residual measured below the regulatory minimum at 0.1 mg/l. In addition, the operator contacted TCEQ and stated that they work in a limited capacity for Castle Water but was not the operator for the Utility and is unaware of any other licensed operators working for the Utility. TCEQ contacted Castle Water about the outages. Castle Water replied that a repair crew would fix the leaks on July 2, 2019, and that two of the wells were no longer producing water.
21. On July 2, 2019, Castle Water contacted TCEQ that one leak had been repaired and a second leak was in the process of being repaired. In addition, the low free chlorine residual level was due to empty chlorine bottles. Replacements had been ordered and were scheduled to be delivered the same day.
22. The TCEQ alleges that the Utility has (1) has been referred to the OAG for the appointment of a receiver; (2) failed to provide appropriate water that poses potential health hazards; (3) failed to adequately maintain facilities, resulting in potential health hazards, extended outages, and repeated service interruptions; (4) failed to secure alternative water supplies during the outages; and (5) has demonstrated a pattern of failing to respond to the TCEQ or the Utility's customers.
23. No other source of water is available to the more than 1,700 people whose water is supplied by the Utility.
24. A potential health hazard exists as a result of the Utility's inability to provide

continuous and adequate service. A licensed operator is immediately required to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meets requirements in the Texas Water Code, the Texas Health and Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to assume operations of the Utility to ensure the quality of the water meets TCEQ rule requirements and complies with the Texas Water Code as well as the Texas Health and Safety Code, and is safe for public use and consumption.

25. Mark Patterson has agreed to serve as temporary manager of the Utility. Mr. Patterson can be reached by telephone at (903) 744-2599 and his mailing address is P.O. Box 910, Collinsville, Texas 76233-0910.
26. This Emergency Order is necessary to ensure that continuous and adequate water service is provided to the customers of the Utility to effectuate the purposes of the Texas Water Code and the Texas Health and Safety Code.

## **II. CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1 through 3, Castle Water owns and operates the retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 5 through 23 show that as of the date of the signing of this Emergency Order the Utility has been abandoned and referred to the OAG for the appointment of a receiver and that the appointment of a temporary manager is justified as defined in TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142 (a) and (c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to temporarily manage and operate a utility if the utility has discontinued service or abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.
4. TEX. WATER CODE § 5.507 provides that the Commission may issue an Emergency Order appointing a willing person to temporarily manage and operate a utility under TEX. WATER CODE § 13.4132.
5. This Emergency Order may be issued without notice or hearing pursuant to TEX. WATER CODE § 5.501(b) and 30 TEX. ADMIN. CODE § 35.25.
6. TEX. WATER CODE § 5.501(c) and 30 TEX. ADMIN CODE §§ 35.12 and 291.143(a) authorize the TCEQ Executive Director to issue this Emergency Order.
7. TEX. WATER CODE §§ 5.501 and 5.507 and 30 TEX. ADMIN. CODE § 291.143(a) authorize the Executive Director to appoint a person to temporarily manage and operate a utility that has discontinued or abandoned operations or which is being referred to the office of the Attorney General for the appointment of

the receiver.

8. TEX. WATER CODE § 13.4132 provides to the temporary manager the powers and duties necessary to ensure continued operation of the utility and the provision of continuous and adequate services to customers including the power and duty to read meters, bill for services, collect revenues, disburse funds, access all system components, and request rate increases.
9. Notice of the Emergency Order, once it has been issued, is adequate if the notice is mailed or hand delivered to the last known address of the Utility's headquarters, in accordance with TEX. WATER CODE § 5.507. The last known addresses for Castle Water are set forth in Finding of Fact No. 4.

### **III. ORDER**

1. This Emergency Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. July 3, 2019.
2. Immediately upon the effective date of this Emergency Order, Mark Patterson is hereby appointed to temporarily manage and operate the Utility.
3. Mark Patterson shall serve as temporary manager until such time as a receiver is appointed to operate the Utility by a court of proper jurisdiction, or 180 days after the effective date of this Emergency Order i.e. December 30, 2019, whichever occurs first.
4. Mark Patterson is authorized to exercise those powers and duties necessary to ensure the continued operations of the Utility and the provision of continuous and adequate services to customers, including the powers and duties set forth in TEX. WATER CODE § 13.4132.
5. Mark Patterson shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Emergency Order.
6. Mark Patterson's requirement to post financial assurance with the TCEQ in an amount and type acceptable to the Executive Director has been waived by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 291.143(c).
7. Mark Patterson's compensation will come from Utility revenues in the amount of ten dollars (\$6.00) per month per connection.
8. Mark Patterson shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).
9. Pursuant to TEX. WATER CODE § 5.504, the Commission will consider whether to affirm, modify or set aside this Emergency Order at its regular Agenda meeting on June 12, 2019 at 9:30 a.m., at TCEQ Park 35 Complex, 12118

North I-35, Building E, Room 201S, Austin, Texas. **At the August 28, 2019 Agenda meeting you may request an evidentiary hearing pursuant to 30 TEX. ADMIN. CODE § 35.25(c) for the purpose of presenting evidence and cross-examining witnesses regarding whether to affirm, modify, or set aside this Emergency Order.**

10. The Chief Clerk shall provide a copy of this Emergency Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

A handwritten signature in black ink, appearing to read 'T. Baker', written over a horizontal line.

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Toby Baker  
Executive Director

## **EXHIBIT A**

# TEXAS NATURAL RESOURCE CONSERVATION COMMISSION



## CERTIFICATE OF CONVENIENCE AND NECESSITY

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

**Certificate No. 10263**

### I. Certificate Holder:

Name: Castle Water, Inc. dba  
Horseshoe Bend Water System

Address: 3211-C Fort Worth Highway  
Weatherford, Texas 76087

### II. General Description and Location of Service Area:

The first area covered by this certificate consists of a 200 foot corridor centered on Horseshoe Bend Road, aka Brazos Trail, running approximately 15,000 feet north from the northern boundary of Horseshoe Bend Subdivision with a westward extension approximately one-half of the way along the corridor. This service area is adjacent to the second service area.

The second service area, Horseshoe Bend Subdivision, covered by this certificate is located approximately 12.5 miles southwest of downtown Weatherford, Texas on Brazos Trail. The service area is generally located within the Horseshoe Bend of the Brazos River bounded on the east, south and west by the Brazos River in Parker County, Texas.

### 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-184, maintained in the offices of the Texas Natural Resource Conservation Commission, 12015 Park 35 Circle, Austin, Texas with all attendant privileges and obligations.

This certificate is issued under Application No. 30200-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: **JAN 13 1994**

ATTEST:

*Moria A. Varguez*

*John Hall*  
For the Commission

## **EXHIBIT B**

# 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. 2012-0787-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

**OCT 26 2012**  
On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CASTLE WATER, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply at 2308 Lipan Highway, Parker County, Texas (the "Facility") that has approximately 459 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Executive Director 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 March 21, 2012.
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 Two Thousand Seven Hundred Ninety-Five Dollars (\$2,795) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Thirty-Six Dollars (\$2,236) of the administrative penalty and Five Hundred Fifty-Nine Dollars (\$559) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
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. 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.
10. 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 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, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on July 26, 2011 and a record review conducted on February 28, 2012. Specifically, the Facility, which has 459 connections should be providing a total well capacity of 202 gpm. The Facility provides a total well capacity of 160 gpm which is a 21% deficiency.
2. 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.

3. Failed to inspect the ground storage tanks ("GSTs") annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A), 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.
4. Failed to inspect the pressure tanks annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B), 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 six pressure tanks had not been conducted in the last twelve months.

### 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: CASTLE WATER, INC., Docket No. 2012-0787-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 30 days after the effective date of this Agreed Order:
    - i. Conduct the annual inspections of the Facility's GSTs, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
    - ii. Conduct the annual inspections of the Facility's pressure tanks, in accordance with 30 TEX. ADMIN. CODE § 290.46.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include

detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

- c. Within 90 days after the effective date of this Agreed Order, provide all-weather access to each well site including but not limited to well site no. 11, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 180 days after the effective date of this Agreed Order, provide a minimum well capacity of 0.6 or 0.44 gpm per connection as required by the alternative capacity requirement approved by the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.45 or obtain Commission approval of an alternative capacity requirement pursuant to 30 TEX. ADMIN. CODE § 290.45(g).
- f. 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.e. 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. 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 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.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

10/26/12  
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.

  
Signature

7.12.12  
Date

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

COO  
Title

**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.

Bryan W. Shaw, Ph.D., *Chairman*  
Carlos Rubinstein, *Commissioner*  
Toby Baker, *Commissioner*  
Zak Covar, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 8, 2012

### CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Jess Lewellyn, President  
CASTLE WATER, INC.  
2401 Callender Road, Suite 105  
Mansfield, Texas 76063

Re: TCEQ Enforcement Action  
CASTLE WATER, INC.  
Docket No. 2012-0787-PWS-E

Dear Mr. Lewellyn:

Enclosed for your records is a fully-executed copy of the Agreed Order for the above-referenced matter.

Should you have any questions, please contact Bridgett Lee, the Enforcement Coordinator assigned to this matter, at (512) 239-2565.

Sincerely,

A handwritten signature in cursive script that reads "Debra Barber".

Debra Barber  
Enforcement Division

Enclosure

cc: Bridgett Lee, Enforcement Division  
Public Water Supply Section Manager, Region 4

## **EXHIBIT C**

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. 2013-1956-PWS-E

At its AUG 20 2014 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. 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 a public water supply at 2308 Lipan Highway in Hood County, Texas (the "Facility") that has 459 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on September 10, 2013, TCEQ staff documented that the Facility, which has 459 connections, should be providing a total well capacity of 202 gallons per minute ("gpm"). The Facility provides a total well capacity of 160 gpm which is a 21% deficiency.
3. During a record review conducted on September 10, 2013, TCEQ staff documented that no documentation was submitted to demonstrate that an all-weather access road was provided for accessing Well No. 11.
4. During a record review conducted on September 10, 2013, TCEQ staff documented that the annual tank inspections of the Facility's five ground storage tanks ("GSTs") had not been conducted.
5. During a record review conducted on September 10, 2013, TCEQ staff documented that the annual tank inspections of the Facility's six pressure tanks had not been conducted.
6. The Respondent received notice of the violations on October 8, 2013.
7. The Executive Director recognizes that, on September 23, 2013, the Respondent conducted the annual inspections of the Facility's GSTs and pressure tanks.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, 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. 2012-0787-PWS-E, Ordering Provision No. 2.e.
3. As evidenced by Findings of Fact No. 3, 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. 2012-0787-PWS-E, Ordering Provision No. 2.c.
4. As evidenced by Findings of Fact No. 4, the Respondent failed to inspect the GSTs annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and TCEQ Agreed Order Docket No. 2012-0787-PWS-E, Ordering Provision No. 2.a.i.

5. As evidenced by Findings of Fact No. 5, the Respondent failed to inspect the pressure tanks annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B) and TCEQ Agreed Order Docket No. 2012-0787-PWS-E, Ordering Provision No. 2.a.ii.
6. 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.
7. An administrative penalty in the amount of One Thousand Three Hundred Ninety-Five Dollars (\$1,395) 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 Six Hundred Ninety-Eight Dollars (\$698) of the administrative penalty. The remaining amount of Six Hundred Ninety-Seven Dollars (\$697) of the administrative penalty shall be payable in one monthly payment of Six Hundred Ninety-Seven Dollars (\$697). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### 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 One Thousand Three Hundred Ninety-Five Dollars (\$1,395) as set forth in Section II, Paragraph 7 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. 2013-1956-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 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;
- b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;
- c. Within 180 days after the effective date of the Agreed Order, provide a minimum well capacity of 0.6 gpm or 0.44 gpm per connection as required by the alternative capacity requirement approved by the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.45 or obtain Commission approval of an alternative capacity requirement pursuant to 30 TEX. ADMIN. CODE § 290.45(g); and
- d. 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.c. 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 Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Zak Covar, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 22, 2014

### CERTIFIED MAIL

Butch Hardie, Chief Operations Officer  
Ann Lewellyn, President  
Castle Water, Inc.  
2401 Callender Road, Suite 105  
Mansfield, Texas 76063-8869

RE: Castle Water, Inc.  
TCEQ Docket No. 2013-1956-PWS-E; Registration No. 1840002  
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: Sam Keller, Enforcement Coordinator, TCEQ Enforcement Division

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Bryan L. Shaw  
For the Commission

Pamela Morin  
For the Executive Director

6/20/14  
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

3-17-14  
Date

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

COO  
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.

7013 3020 0001 1906 4632

<b>U.S. Postal Service™</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage \$	
Re (Endors)	BUTCH HARDIE CHIEF OPERATIONS OFFICER CASTLE WATER INC
Restrict (Endors)	2401 CALLENDER RD STE 105 MANSFIELD TX 76063-8869
Total \$	
Sent To	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, August 2006	
See Reverse for Instructions	

## **EXHIBIT D**

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 NOV 02 2016 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

11-8-16  
Date

  
For the Executive Director

9/20/16  
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.

  
Signature

6-8-16  
Date

BUTCH HANDIE  
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.

Bryan W. Shaw, Ph.D., P.E., *Chairman*  
Toby Baker, *Commissioner*  
Jon Niermann, *Commissioner*  
Richard A. Hyde, P.E., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

November 9, 2016

### FIRST CLASS MAIL

Butch Hardie, President  
Castle Water, Inc.  
2401 Callender Road, Suite 105  
Mansfield, Texas 76063-8869

RE: Castle Water, Inc.  
TCEQ Docket No. 2016-0071-PWS-E; Registration No. 1840002  
Agreed Order Assessing Administrative Penalties and Requiring Certain Actions

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

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Office of the Chief Clerk 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: Steven Hall, Enforcement Coordinator, TCEQ Enforcement Division