

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1494-PWS-E TCEQ ID: RN101210458 CASE NO.: 34625
RESPONDENT NAME: ROOFING SUPPLY, L.L.C.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 2600 West Mount Houston Road, Houston, Harris County

TYPE OF OPERATION: public water supply system

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired July 6, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Yuliya Dunaway, Enforcement Section, MC R-13 (210) 403-4077

TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12 (713) 767-3581

Respondent: Ms. Cecilia Davenport, Vice President, Roofing Supply, L.L.C., 3890 W. NW Hwy, Suite 400, Dallas, Texas 75220

Respondent's Attorney: Ms. Lisa Gold, General Counsel, Roofing Supply, L.L.C., 3890 W. NW Hwy, Suite 400, Dallas, Texas 75220

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 13, 2007</p> <p>Date of NOE Relating to this Case: October 31, 2007</p> <p>Background Facts: The EDPRP was filed on March 20, 2008. The Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed on April 6, 2009.</p> <p>Current Compliance Status: Respondent in not yet in compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to secure a sanitary control easement covering land within 150 feet of the well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. Failed to submit as-built water system plans and specifications prepared by a licensed, professional engineer to the Commission for review and approval. [30 TEX. ADMIN. CODE § 290.39(e)]. 	<p>Initial Calculated Penalty: \$157</p> <p>Total Assessed: \$157</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$157</p> <p>The Respondent paid the penalty in full.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 60 days: <ol style="list-style-type: none"> Secure a sanitary control easement for well No. 2, or obtain an exception to the requirement; and Submit Facility as-built plans, specifications, and engineering reports prepared by a licensed professional engineer to the Commission. Within 75 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	13-Aug-2007	Screening	13-Sep-2007	EPA Due	
	PCW	3-Jan-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Roofing Supply, L.L.C.		
Reg. Ent. Ref. No.	RN101210458		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34625	No. of Violations	2
Docket No.	2007-1494-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Yuliya Dunaway
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$150
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$7
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Notes: One NOV issued for similar violations in previous five year period.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$63	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$1,200	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$157
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$157
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$157
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$157
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Screening Date 13-Sep-2007

Docket No. 2007-1494-PWS-E

PCW

Respondent Roofing Supply, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 34625

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101210458

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

One NOV issued for similar violations in previous five year period.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 13-Sep-2007	Docket No. 2007-1494-PWS-E	PCW
Respondent Roofing Supply, L.L.C.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34625	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101210458		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin Code § 290.41(c)(1)(F)	
Violation Description	Failed to secure a sanitary control easement covering land within 150 feet of the well. Specifically, a copy of the sanitary control easement was not provided at the time of the investigation.	
Base Penalty		<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text" value="X"/>	<input type="text" value="5%"/>	

>> Programmatic Matrix

	Falsification			
	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Matrix Notes	Failure to obtain a sanitary control easement could result in the exposure of customers of the water supply to an insignificant amount of contaminants which would not exceed levels protective of human health.			
Adjustment				<input type="text" value="\$950"/>

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="X"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$13"/>	Violation Final Penalty Total <input type="text" value="\$52"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$52"/>	

Economic Benefit Worksheet

Respondent Roofing Supply, L.L.C.

Case ID No. 34625

Reg. Ent. Reference No. RN101210458

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$200	13-Jun-2007	14-May-2008	0.9	\$1	\$12	\$13
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to obtain a sanitary control easement or exception to the easement requirement, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

There are no avoided costs associated with this violation.

Approx. Cost of Compliance

\$200

TOTAL

\$13

Screening Date 13-Sep-2007	Docket No. 2007-1494-PWS-E	PCW
Respondent Roofing Supply, L.L.C.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34625	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101210458		
Media [Statute] Public Water Supply		
Enf. Coordinator Yuliya Dunaway		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code 290.39(e)	
Violation Description	Failed to submit as-built water system plans and specifications prepared by a licensed, professional engineer to the Commission for review and approval.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential				
				Percent 0%	

>> Programmatic Matrix

	Falsification			
	Major	Moderate	Minor	
	X			
				Percent 10%
Matrix Notes	100% of the rule requirement was not met.			
				Adjustment \$900

\$100

Violation Events

Number of Violation Events 1	93	Number of violation days											
<i>mark only one with an x</i> <table border="1" style="margin-left: 20px; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black; text-align: center;">X</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	X	Violation Base Penalty \$100
daily													
monthly													
quarterly													
semiannual													
annual													
single event	X												
One single event is recommended.													

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$50	Violation Final Penalty Total \$105
This violation Final Assessed Penalty (adjusted for limits) \$105	

Economic Benefit Worksheet

Respondent Roofing Supply, L.L.C.
Case ID No. 34625
Reg. Ent. Reference No. RN101210458
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,000	13-Jun-2007	13-Jun-2008	1.0	\$50	n/a	\$50
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs The estimated cost to hire the services of an engineer to prepare "as-built" plans and specifications, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$1,000 **TOTAL** \$50

Compliance History

Customer/Respondent/Owner-Operator:	CN603213356 RSGRP Houston, Ltd.	Classification:	Rating:
Regulated Entity:	RN101210458 ROOFING SUPPLY LTD	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1013215
Location:	2600 West Mt. Houston Road, Harris County		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 13, 2002 to September 13, 2007		

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

Name: Thomas Barnett Phone: 713-767-3680

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court Judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | | |
|---|------------|----------|--|
| 1 | 03/21/2005 | (349257) | |
| 2 | 08/08/2007 | (563893) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 03/21/2005 | (349257) | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to provide a sanitary control easement. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(n)(2) | | |
| Description: | Failure to provide a distribution map. | | |
| Self Report? | NO | | Classification: Major |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.39(e)[G] | | |
| Description: | Failure to submit "as built" plans. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.118(a) | | |
| Description: | Failure to meet the acceptable level of pH 7 or greater. | | |
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROOFING SUPPLY, L.L.C.;
RN101210458

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1494-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Roofing Supply, L.L.C. ("Roofing Supply") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Roofing Supply represented by Lisa Gold, Counsel for Roofing Supply, appear before the Commission and together stipulate that:

1. Roofing Supply owns and/or operates a public water supply system located at 2600 West Mount Houston Road, Houston, Harris County, Texas (the "Facility").
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. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Roofing Supply agree that the Commission has jurisdiction to enter this Agreed Order, and that Roofing Supply is subject to the Commission's jurisdiction.
4. Roofing Supply received notice of the violations alleged in Section II ("Allegations") on or about November 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Roofing Supply of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one hundred fifty-seven dollars (\$157.00) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Roofing Supply paid one hundred fifty-seven dollars (\$157.00) of the administrative penalty.

7. 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.
8. The Executive Director of the TCEQ and Roofing Supply agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
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 Roofing Supply 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

During an investigation conducted on June 13, 2007, a TCEQ Houston Regional Office investigator documented that Roofing Supply violated:

- a. 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) by failing to secure a sanitary control easement covering land within 150 feet of the well. Specifically, a copy of the sanitary control easement was not provided at the time of the investigation; and
- b. 30 TEX. ADMIN. CODE § 290.39(e) by failing to submit as-built water system plans and specifications prepared by a licensed, professional engineer to the Commission for review and approval.

III. DENIALS

Roofing Supply generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Roofing Supply pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Roofing Supply'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 action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Roofing Supply, L.L.C., Docket No. 2007-1494-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. Roofing Supply shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, Roofing Supply shall:
 - i. Secure a sanitary control easement for well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.41 or obtain an exception to the requirement, in accordance with 30 TEX. ADMIN. CODE § 290.39; and
 - ii. Submit Facility as-built plans, specifications, and engineering reports prepared by a licensed, professional engineer to the Commission, in accordance with 30 TEX. ADMIN. CODE § 290.39. The start-up notification, plans, and reports shall be submitted to:

Technical Review and Oversight Team
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Within 75 days after the effective date of this Order, Roofing Supply shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. 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 fine and imprisonment for knowing violations.”

Roofing Supply shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Stephen Smith, Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Ave., Ste. H.
Houston, Texas 77023-1452

3. The provisions of this Agreed Order shall apply to and be binding upon Roofing Supply. Roofing Supply 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 Roofing Supply shall be made in writing to the Executive Director. Extensions are not effective until Roofing Supply 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 Roofing Supply 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.

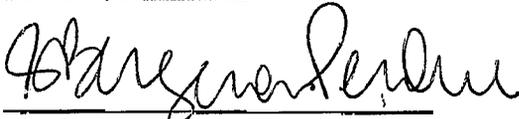
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 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 the Order to Roofing Supply, or three days after the date on which the Commission mails notice of the Order to Roofing Supply, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Roofing Supply, L.L.C.
Docket No. 2007-1494-PWS-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



6/17/2009

For the Executive Director

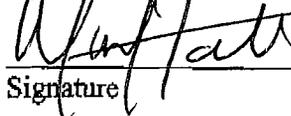
Date

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 the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Roofing Supply's compliance history;
- Greater scrutiny of any permit applications submitted by Roofing Supply;
- 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 against Roofing Supply;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Roofing Supply; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4/16/09
Date

Mike Farrell
Name (Printed or typed)
Authorized representative of
Roofing Supply, L.L.C

President
Title