

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0697-PWS-E **TCEQ ID:** RN102673167 **CASE NO.:** 39611  
**RESPONDENT NAME:** San Pedro Canyon Water Company

<b>ORDER TYPE:</b>		
<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"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND 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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> San Pedro Canyon Water Co, a half mile north of Spur 454 on San Pedro Drive, near Del Rio, Val Verde County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 4, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Mitchell Lomas, Authorized Agent, San Pedro Canyon Water Company, 1218 South Main Street, Del Rio, Texas 78840-5926  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 12, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 14, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].</p>	<p><b>Total Assessed:</b> \$474</p> <p><b>Total Deferred:</b> \$94  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$380</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, the Respondent shall mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data; and</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): 2330011



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned PCW</b>	3-May-2010	<b>Screening</b>	4-May-2010	<b>EPA Due</b>	1-Jul-2008
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## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	San Pedro Canyon Water Company		
<b>Reg. Ent. Ref. No.</b>	RN102673167		
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	39611	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-0697-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

Total EB Amounts    
 Approx. Cost of Compliance    
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

**PAYABLE PENALTY**

Screening Date 4-May-2010

Docket No. 2010-0697-PWS-E

PCW

Respondent San Pedro Canyon Water Company

Policy Revision 2 (September 2002)

Case ID No. 39611

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673167

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

### 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)	2	10%
	Other written NOVs	10	20%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (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) 55%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement action, 10 prior dissimilar NOVs, and one prior enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 4-May-2010

Docket No. 2010-0697-PWS-E

PCW

Respondent San Pedro Canyon Water Company

Policy Revision 2 (September 2002)

Case ID No. 39611

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102673167

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2007 and 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$600

\$100

Violation Events

Number of Violation Events 2 Number of violation days 701

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

Violation Base Penalty \$200

Two annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$164

Violation Final Penalty Total \$474

This violation Final Assessed Penalty (adjusted for limits) \$474

# Economic Benefit Worksheet

**Respondent** San Pedro Canyon Water Company  
**Case ID No.** 39611  
**Reg. Ent. Reference No.** RN102673167  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Jul-2008	1-Jul-2009	1.92	\$14	\$150	\$164
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the CCRs to the customers of the Facility (calculation: \$0.50 x 50 connections + \$50 x 2 years), calculated for the years in which no CCRs were distributed.

Approx. Cost of Compliance

\$150

TOTAL

\$164

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600710594 San Pedro Canyon Water Company	Classification:	Rating:
Regulated Entity:	RN102673167 SAN PEDRO CANYON WATER CO	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	2330011 2330011
Location:	½ MILE NORTH OF SPUR 454 ON SAN PEDRO DRIVE, NEAR DEL RIO, VAL VERDE COUNTY, TX		
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	May 04, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 04, 2005 to May 04, 2010		

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

Name: Epi Villarreal Phone: 361-825-3425

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 02/08/2009

ADMINORDER 2008-0729-MLM-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to provide the water system's operating records for review during inspections.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(5)

Description: Failure to provide sufficient valves and blowoffs so that necessary repairs can be made without undue interruption of service over any considerable area and for flushing the system when required.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide a sanitary easement or exception for the well

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failure to house the hypochlorination solution container in a secure enclosure to protect it from adverse weather conditions and vandalism.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide an air/water volume indicator for all tanks greater than 1,000 gallon capacity.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide the required minimum capacity for total storage.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)

Description: Failure to flush dead end mains at least once a month or more often if needed.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
Description: Failure to conduct annual tank inspections for the pressure tanks.  
Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
30 TAC Chapter 290, SubChapter F 290.121(b)(1)(C)  
Description: Failure to completely develop the monitoring plan.  
Classification: Moderate

Citation: 30 TAC Chapter 291, SubChapter F 291.93  
Description: Failure by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 T.A.C., to submit to the executive director a planning report that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)(3)  
Description: Failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 92330011 for Fiscal Year 2007

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	07/19/2005	(397191)
2	09/15/2005	(431964)
3	10/02/2006	(514559)
4	06/14/2007	(727197)
5	08/16/2007	(570614)
6	04/14/2008	(640248)
7	07/28/2008	(735876)
8	10/13/2008	(735879)
9	10/13/2008	(735882)
10	10/13/2008	(735891)
11	10/13/2008	(735895)
12	02/23/2009	(735867)
13	02/23/2009	(735872)
14	02/26/2009	(736781)
15	11/03/2009	(797725)
16	11/18/2009	(781207)
17	03/25/2010	(796947)
18	04/28/2010	(799008)

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

Date:	02/03/2006	(453872)	CN600710594
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:	Failure to provide a working liquid level indicator for the ground storage tank.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)		
Description:	Failure to provide the water system's operating records for review during inspections.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(q)		
Description:	Failure to issue a boil water notice within 24 hours.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)		
Description:	Failure to employ an operator with a Class "D" or higher water license for a		

system that treats groundwater and serves less than 250 connections.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)

Description: Failure to submit routine reports and any additional documentation required to determine compliance. The reports must contain all the information required by the drinking water standards and the results of any special monitoring tests which have been required.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain a free chlorine residual of 0.2 mg/L in each water storage tank and throughout the distribution.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 293, SubChapter A 293.3

Description: Failure by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 T.A.C., to submit a planning report that clearly explains how the retail

Date: 02/01/2007 (543646) CN600710594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain the minimum required disinfectant residual in the distribution.

Date: 06/14/2007 (727197) CN600710594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for combined radium 226 and 228 during the second quarter of 2007.

Date: 07/17/2007 (514860) CN600710594

Self Report? NO Classification: Minor

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

Description: Failure to issue a boil water notice within 24 hours.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(5)

Description: Failure to provide sufficient valves and blowoffs so that necessary repairs can be made without undue interruption of service over any considerable area and for flushing the system when required.

Date: 08/17/2007 (570814) CN600710594

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to provide the water system's operating records for review during inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(5)

Description: Failure to provide sufficient valves and blowoffs so that necessary repairs can be made without undue interruption of service over any considerable area and for flushing the system when required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide a sanitary easement or exception for the well

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)

Description: Failure to house the hypochlorination solution container in a secure enclosure to protect it from adverse weather conditions and vandalism.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to provide an air/water volume indicator for all tanks greater than 1,000 gallon capacity.

Self Report? NO Classification: Moderate

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

Description: 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Failure to provide the required minimum capacity for total storage.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)

Description: Failure to flush dead end mains at least once a month or more often if needed.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failure to conduct annual tank inspections for the pressure tanks.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 30 TAC Chapter 290, SubChapter F 290.121(b)(1)(C)

Description: Failure to completely develop the monitoring plan.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 291, SubChapter F 291.93

Description: Failure by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 T.A.C., to submit to the executive director a planning report that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area.

Date: 01/07/2008 (735867) CN600710594  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for combined radium 226 and 228 during the third quarter of 2007.

Date: 04/16/2008 (646436) CN600710594  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

Description: Failure to maintain a minimum disinfectant residual of 0.2 mg/l. throughout the distribution system at all times.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)

Description: Failure to enclose the plant and all appurtenances by an intruder-resistant fence.

Date: 07/28/2008 (735876) CN600710594  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for combined radium 226 and 228 during the first quarter of 2008.

Date: 07/28/2008 (735872) CN600710594  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for combined radium 226 and 228 during the fourth quarter of 2007.

Date: 10/13/2008 (735882) CN600710594  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for combined radium 226 and 228 during the third quarter of 2008.

Date: 10/13/2008 (735879) CN600710594  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(f)(1)

Description: 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Violated the maximum contaminant level for combined radium 226 and 228 during the second quarter of 2008.

Date: 10/13/2008 (735895) CN600710594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(f)(1)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for gross alpha particle activity during the second quarter of 2008.

Date: 10/13/2008 (735891) CN600710594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(A)  
 30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)  
 30 TAC Chapter 290, SubChapter F 290.108(F)(1)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for gross alpha particle activity during the third quarter of 2008.

Date: 01/14/2009 (796947) CN600710594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
 30 TAC Chapter 290, SubChapter H 290.274(a)

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2007 to its bill-paying customers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2007 CCR year to the TCEQ.

Date: 11/03/2009 (797725) CN600710594

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
 30 TAC Chapter 290, SubChapter H 290.274(a)

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.

Date: 11/19/2009 (781207) CN600710594

Self Report? NO Classification: Minor

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

Description: Failure to cover the well vent opening with a 16-mesh or finer, corrosion-resistant screen.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)

Description: Failure to provide a corrosion-resistant 16-mesh or finer screen on the storage tank roof vent.

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  
SAN PEDRO CANYON WATER  
COMPANY  
RN102673167

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0697-PWS-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding San Pedro Canyon Water Company ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply a half mile north of Spur 454 on San Pedro Drive near Del Rio, Val Verde County, Texas (the "Facility") that has approximately 50 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 19, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Four Hundred Seventy-Four Dollars (\$474) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Eighty Dollars (\$380) of the administrative penalty and Ninety-Four Dollars (\$94) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon

full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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 failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c), as documented during a record review conducted on April 12, 2010.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: San Pedro Canyon Water Company, Docket No. 2010-0697-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, the Respondent shall mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274;
- b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section  
Water Supply Division, MC-155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 60 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 Nos. 2.a. and 2.b. 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  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

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

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John S. Miller  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 9/21/2010

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.

Mitchell Lowms  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 8/4/10

Mitchell Lowms  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
San Pedro Canyon Water Company

Authorized Agent  
\_\_\_\_\_  
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.

