

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 22, 2010

Mr. Don English
3117 Silverton Drive
Dallas, Texas 75229

Re: Don English dba English Acres aka Coyote Water
Docket No. 2009-2077-PWS-E

Dear Mr. English:

On December 29, 2009, 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 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and 30 TEX. ADMIN. CODE chs. 35, 290, and 291. The party made subject to this order is Don English dba English Acres aka Coyote Water. The Emergency Order appoints Lonzo Gale as temporary manager of the public water system located at Highway 44 at the intersection of Farm-to-Market Road 1554, west of the City of Alice, Jim Wells County, Texas.

Pursuant to TEX. WATER CODE § 5.504 the Commission will consider whether to affirm, modify, or set aside the Emergency Order issued on December 29, 2009. **Therefore, the Executive Director has scheduled this matter to be presented at the Commission's regular Agenda meeting on February 10, 2010.** 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 which 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), **you may request at the time of the Agenda on February 10, 2010, an evidentiary hearing on issuance of the Emergency Order.** An Administrative Law Judge will be available to conduct a hearing at Agenda on **February 10, 2010**, should you so request. Should you have any questions, please contact the TCEQ Litigation Division at (512) 239-3400.

Sincerely,


Jim Sallans

Litigation Division MC 175

Enclosures

cc: Mr. F. Benjamin Riek, III, Attorney, 100 N. Central Expressway, Suite 901, Richardson, Texas 75080
Mr. Lonzo Gale, P.O. Box 314, Magnolia, Texas 77353
Mr. Blas Coy, Public Interest Counsel, MC 103
Office of the Chief Clerk, MC 105

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-2077-PWS-E TCEQ ID RN102670783 CASE NO. 38158
RESPONDENT NAME: DON ENGLISH DBA ENGLISH ACRES AKA COYOTE WATER

ORDER TYPE:		
<input 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 checked="" 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
<p>SITE WHERE VIOLATIONS OCCURRED: Highway 44 at the intersection of Farm-to-Market Road 1554, west of the City of Alice, Jim Wells County, Texas.</p> <p>TYPE OF OPERATION: Public water system.</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>OTHER SIGNIFICANT MATTERS: On December 21, 2009, the Corpus Christi region received a request for assistance for the Utility. There are no additional complaints. A NOE on this Facility for additional violations was issued on January 5, 2010.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: Pursuant to TEX. WATER CODE § 7.075, publication is not required for an Emergency Order.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-3400. TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Section, MC R-13, (210) 403-4012. TCEQ Regional Contact: Mr. Kelly Ruble, Section Manager, Corpus Christi Regional Office, MC R-14, (361) 825-2113. Respondent: Mr. Don English, Owner, 3117 Silverton Drive, Dallas, Texas 75229. Respondent's Attorney: F. Benjamin Riek, III, 100 N. Central Expressway, Suite 901, Richardson, Texas 75080.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <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: December 21, 2005</p> <p>Dates of Investigations Relating to this Case: 12/8/06 and 12/22/09</p> <p>Dates of NOEs Relating to this Case: 1/12/07 and 1/5/10</p> <p>Background Facts: The Utility provides potable water service for compensation to approximately 37 service connections, serves at least 25 people per day for at least 60 days per year, and provides water for human consumption. No other source of water is available to the more than 110 people whose water is supplied by the Utility.</p> <p>During the December 8, 2006 inspection it was noted that Mr. English: 1) failed to provide adequate pressure tank capacity; 2) failed to provide the ground storage tank with an access ladder and proper overflow pipe; 3) failed to enclose the Utility's well unit and tanks with an intruder-resistant fence; 4) failed to maintain the Utility's facilities in water-tight condition; 5) failed to maintain a record of Utility operations and maintenance activities; 6) failed to ensure that the Utility is under the direct supervision of a class "D" water works operator; 7) failed to obtain TCEQ approval prior to the construction and use of two new wells; 8) failed to provide each well with a proper concrete sealing block; 9) failed to install a flow meter on each well pump discharge line; 10) failed to provide an all-weather access road to each well site; 11) failed to provide adequate minimum constant pressure in the Utility; 12) failed to ensure that all chemicals or media used in the treatment of water conform to American National Standard Institute/National Sanitation Foundation ("ANSI/NSF") standards for additives; and 13) failed to provide service pumps with adequate capacity.</p> <p>During a December 22, 2009 inspection it was noted that Mr. English: 1) failed operate the disinfection equipment to maintain a minimum free chlorine residual of 0.2 mg/l or a minimum chloramine residual of 0.5 mg/L (measured as total chlorine) for those systems that feed ammonia, in each finished water storage tank and throughout the distribution system at all times; 2) failed to</p>	<p>N/A</p>	<p>Ordering Provisions:</p> <ol style="list-style-type: none"> 1. Immediately upon the effective date of this Emergency Order, Mr. Gale is hereby appointed to temporarily manage and operate the Utility. 2. Mr. Gale 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. 3. Mr. Gale shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order. 4. Mr. Gale'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). 5. Mr. Gale's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection. 6. Mr. Gale shall report to the Executive Director on a monthly basis in accordance with 30 TEX. ADMIN. CODE § 291.143(h).

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>maintain a record of water works operation and maintenance activities and submit periodic operating reports; 3) failed to flush all dead end mains at monthly intervals; 4) failed to collect samples for total coliform, fecal coliform, Escherichia coli ("E. coli"), or other fecal indicator organisms at locations and frequency as directed by the executive director; 5) failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days; 6) failed to ensure all completed well units are protected by intruder-resistant fences, the gates of which are provided with locks or are enclosed in locked, ventilated well houses to exclude possible contamination or damage to the facilities by trespassers; 7) failed to ensure wellheads and pump bases are sealed by a gasket or sealing compound and properly vented to prevent the possibility of contaminating the well water; and 8) failed to plan, furnish, operate, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses.</p> <p>A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meet requirements in the Texas Water Code, the Texas Health & Safety Code, and TCEQ rules. Therefore, a temporary manager is necessary to operate the Utility to ensure the quality of the water meets TCEQ rule requirements, complies with the Texas Water Code and the Texas Health & Safety Code, and is safe for public use and consumption.</p> <p>On December 29, 2009, the Executive Director issued an Emergency Order appointing Lonzo Gale ("Mr. Gale") as Temporary Manager for the Utility. A copy of the signed Emergency Order was hand delivered to the residence of Mr. English on December 29, 2009. Mr. English was also served via certified mail on January 5, 2010.</p> <p>The Executive Director is requesting approval of the Emergency Order appointing Mr. Gale as the temporary manager for 180 days.</p> <p>PWS: Discontinued providing service [TEX. WATER CODE §§ 13.412(f) and 13.4132 and 30 TEX. ADMIN. CODE § 291.142(c)].</p>		

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF
AN ENFORCEMENT ACTION
CONCERNING DON ENGLISH DBA
ENGLISH ACRES AKA COYOTE
WATER
RN102670783

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**ORDER AFFIRMING EMERGENCY ORDER
DOCKET NO. 2009-2077-PWS-E**

On February 10, 2010, the Texas Commission on Environmental Quality ("TCEQ" or "Commission") considered whether to affirm, modify, or set aside an Emergency Order in the matter regarding Don English dba English Acres aka Coyote Water ("Mr. English"). The Emergency Order was issued by the Executive Director without a hearing on December 29, 2009. The Emergency Order and the notice of the February 10, 2010 agenda hearing to affirm, modify, or set aside the Emergency Order were sent by certified mail return receipt requested, and sent first class mail, postage prepaid to the last known address of Mr. English on December 29, 2009. The Emergency Order was also hand delivered to Mr. English on December 29, 2009. The Commission finds that the Executive Director appropriately issued the Emergency Order and that the requirements for an emergency order found in Chapters 5 and 13 of the Texas Water Code have been satisfied.

**THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
ORDERS THAT:**

The December 29, 2009 Emergency Order, attached hereto as Exhibit A and incorporated into this Order by reference, is affirmed.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Exhibit A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



TCEQ DOCKET NO. 2009-2077-PWS-E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
2009 DEC 29 PM 2:11
CHIEF CLERKS OFFICE

IN THE MATTER OF § BEFORE THE
AN ENFORCEMENT ACTION AGAINST §
DON ENGLISH DBA ENGLISH ACRES, § TEXAS COMMISSION ON
AKA COYOTE WATER; §
RN102670783 § ENVIRONMENTAL QUALITY

EMERGENCY ORDER
APPOINTING A TEMPORARY MANAGER
OF A WATER UTILITY

On December 29, 2009, 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 party made subject to this order is Don English dba English Acres aka Coyote Water ("Mr. English").

I.
FINDINGS OF FACT

1. Mr. English owns and operated a public water system referred to as English Acres also known as Coyote Water, located at Highway 44 at the intersection of Farm-to-Market Road 1554, west of the City of Alice, Jim Wells County, Texas (the "Utility").
2. The Utility provides potable water service for compensation to approximately 37 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(66).
3. The Utility operates pursuant to Certificate of Convenience and Necessity No. 12794.
4. The TCEQ alleges that the Utility has discontinued the provision of service and necessary repairs to ensure continuous and adequate water service.
5. Commission records show that the mailing address for Mr. English is, 3117 Silverton Drive, Dallas, Texas 75229.

6. No other source of water is available to the more than 110 people whose water is supplied by the Utility.
7. During an inspection at the Utility conducted on December 8, 2006, a TCEQ Corpus Christi Regional Office Investigator documented and now alleges that Mr. English violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 290.45(b)(1)(F)(iv) and TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.b.i. by failing to provide adequate pressure tank capacity;
 - b. 30 TEX. ADMIN. CODE § 290.43(c)(3) and TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.b.ii. by failing to provide the ground storage tank with an access ladder and proper overflow pipe;
 - c. 30 TEX. ADMIN. CODE §§ 290.41(c)(3)(O) and 290.43(e) and TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.b.iii. by failing to enclose the Utility's well unit and tanks with an intruder-resistant fence;
 - d. 30 TEX. ADMIN. CODE § 290.46(m)(4) by failing to maintain the Utility's facilities in water-tight condition;
 - e. 30 TEX. ADMIN. CODE § 290.46(f) and TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.b.v. by failing to maintain a record of Utility operation and maintenance activities;
 - f. 30 TEX. ADMIN. CODE § 290.46(e); TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.a. by failing to ensure that the Utility is under the direct supervision of a class "D" water works operator;
 - g. 30 TEX. ADMIN. CODE § 290.39(c) by failing to obtain TCEQ approval prior to the construction and use of two new wells;
 - h. 30 TEX. ADMIN. CODE § 290.41(c)(3)(J) by failing to provide each well with a proper concrete sealing block;
 - i. 30 TEX. ADMIN. CODE § 290.41(c)(3)(N) by failing to install a flow meter on each well pump discharge line;
 - j. 30 TEX. ADMIN. CODE § 290.41(c)(3)(P) by failing to provide an all-weather access road to each well site;

- k. 30 TEX. ADMIN. CODE § 290.46(r) by failing to provide adequate minimum constant pressure in the Utility;
 - l. 30 TEX. ADMIN. CODE § 290.42(j) by failing to ensure that all chemicals or media used in the treatment of water conform to American National Standard Institute/National Sanitation Foundation (“ANSI/NSF”) standards for additives; and
 - m. 30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(iii) by failing to provide service pumps with adequate capacity.
8. During an inspection at the Utility conducted on December 22, 2009, a TCEQ Corpus Christi Regional Office Investigator documented and now alleges that Mr. English violated the following requirements:
- a. 30 TEX. ADMIN. CODE § 290.46(d)(2) by failing to operate the disinfection equipment to maintain a minimum free chlorine residual of 0.2 mg/l or a minimum chloramine residual of 0.5 mg/L (measured as total chlorine) for those systems that feed ammonia, in each finished water storage tank and throughout the distribution system at all times;
 - b. 30 TEX. ADMIN. CODE § 290.46(f) and TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.b.v. by failing to maintain a record of water works operation and maintenance activities and submit periodic operating reports;
 - c. 30 TEX. ADMIN. CODE § 290.46(l) by failing to flush all dead end mains at monthly intervals;
 - d. 30 TEX. ADMIN. CODE § 290.109(c) by failing to collect samples for total coliform, fecal coliform, *Escherichia coli* (“E. coli”), or other fecal indicator organisms at locations and frequency as directed by the executive director;
 - e. 30 TEX. ADMIN. CODE § 290.110(c)(4)(A) by failing to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days;
 - f. 30 TEX. ADMIN. CODE § 290.41(c)(3)(O) and TCEQ Default Order, Docket No. 2005-0238-PWS-E, Ordering Provision 2.b.iii. by failing to ensure all completed well units are protected by intruder-resistant fences, the gates of which are provided with locks or are enclosed in locked, ventilated well houses to exclude possible contamination or damage to the facilities by trespassers;
 - g. 30 TEX. ADMIN. CODE § 290.41(c)(3)(K) by failing to ensure wellheads and pump bases are sealed by a gasket or sealing compound and properly vented to prevent the

possibility of contaminating the well water. A well casing vent shall be provided with an opening that is covered with 16-mesh or finer corrosion-resistant screen, facing downward, elevated and located so as to minimize the drawing of contaminants into the well; and

- h. 30 TEX. ADMIN. CODE § 291.93 by failing to plan, furnish, operate, and maintain production, treatment, storage, transmission, and distribution facilities of sufficient size and capacity to provide a continuous and adequate supply of water for all reasonable consumer uses.
9. A potential health hazard exists as a result of the Utility's failure to provide continuous and adequate service. Immediate repairs on the Utility are necessary to ensure the quality of the water in the State and to ensure the Utility operates in a safe manner and meet requirements in the Texas Water Code, the Texas Health & 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 & Safety Code, and is safe for public use and consumption.
10. Lonzo Gale ("Mr. Gale") has agreed to serve as temporary manager of the Utility and his mailing address is P.O. Box 314, Magnolia, Texas 77353. His telephone number is (713) 542-8405.
11. This 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.
12. Because Mr. English has failed to comply with Commission Orders 2004-0585-PWS-E and 2005-0238-PWS-E, this matter has been referred to the Attorney General's Office so that a petition may be filed to appoint a receiver under TEX. WATER CODE § 13.412 to guarantee continuous and adequate service to customers of the Utility.

II. CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1, 2, and 3 Mr. English owns and operated the retail public utility as defined in TEX. WATER CODE § 13.002(19).
2. Findings of Fact Nos. 4, 7, 8, and 9 show that the Utility has discontinued providing service 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(c).
3. TEX. WATER CODE § 13.4132 authorizes the Commission to appoint a willing person to

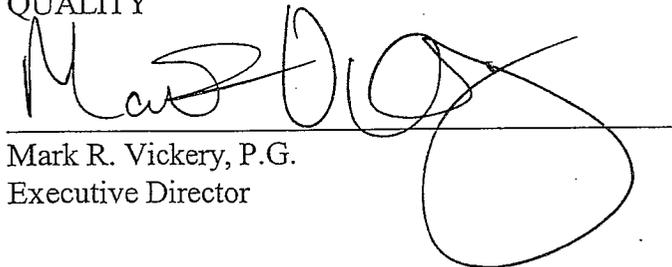
- temporarily manage and operate a utility if the utility has discontinued service or abandoned operations or the provision of services or has been or is being referred to the Attorney General for the appointment of a receiver under TEX. WATER CODE § 13.412.
4. TEX. WATER CODE § 5.507 provides that the 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 address of Mr. English is set forth in Finding of Fact No. 5.

III. ORDER

1. This Order shall be effective on the date it is executed by the TCEQ Executive Director, i.e. December 29, 2009.
2. Immediately upon the effective date of this Emergency Order, Mr. Gale is hereby appointed to temporarily manage and operate the Utility.
3. Mr. Gale shall serve as temporary manager of the Utility 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 Order i.e. June 27, 2010, whichever occurs first.

4. Mr. Gale 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. Mr. Gale shall give the Executive Director an inventory of all Utility property received within sixty (60) days of the effective date of this Order.
6. Mr. Gale'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. Mr. Gale's compensation will come from Utility revenues in the amount of fifteen dollars (\$15.00) per month per connection.
8. Mr. Gale 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 Order at its regular Agenda meeting on February 10, 2010 at 9:30 a.m., at TCEQ Park 35 Complex, 12118 North I-35, Building E, Room 201S, Austin, Texas. **At the February 10, 2010 Agenda meeting, Mr. English 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. An Administrative Law Judge will be present at the Agenda to immediately hear the matter should a hearing be requested.**
10. The Chief Clerk shall provide a copy of this Order to each of the parties.

TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY



Mark R. Vickery, P.G.
Executive Director

AFFIDAVIT OF ERIC AGNEW

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

My name is Eric Agnew. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

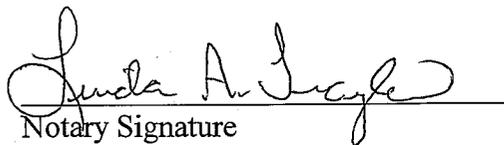
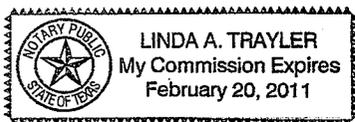
On December 29, 2009, on behalf of the Executive Director of the Texas Commission on Environmental Quality, I personally attempted to hand deliver to Don English, the Notice and Emergency Order set for the February 10, 2010 Commission Agenda. Mr. English was not home, therefore, I left a copy of the Notice and Emergency Order taped to his front door.



Eric Agnew
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day appeared Eric Agnew, personally known to me to be the person whose name is subscribed to the foregoing instrument and upon his oath acknowledged to me that the facts herein are true and correct.

Given under my hand and seal of office this 11 day of January, A.D., 2010.



Notary Signature

Notary Stamp

Compliance History Report

Customer/Respondent/Owner-Operator: CN601356124 ENGLISH, DON L Classification: Rating:
Regulated Entity: RN102670783 ENGLISH ACRES Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1250033
Location: LOCATED OFF HWY 44 AT THE INTERSECTION OF FM
1554 AND CR 136 WEST OF ALICE
JIM WELLS COUNTY
TEXAS
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: January 08, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 08, 2005 to January 08, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Lauren Smitherman Phone: 512-239-5223

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
- 6.

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: 02/20/2006

ADMINORDER 2004-0585-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)(3)

5A THC Chapter 341, SubChapter A 341.041(a)

Description: Failure to pay all Public Health Service (PHS) fees, including any associated late fees and penalties, in a timely manner. Specifically, PHS fees for years 1994 through 2008 are outstanding and the total amount owed is \$2,312.83 as of the date of the file review.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(5)

Description: Failure to conduct lead/copper monitoring.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(c)

Description: Failure to perform quarterly monitoring of Radiological Contaminants and report results of chemical analyses.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(1)(B)

30 TAC Chapter 290, SubChapter F 290.107(c)(2)(B)

Description: Failure to perform annual monitoring of Volatile Organic Contaminants and Synthetic Organic

Contaminants and report results for chemical analyses.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(3)(A)

Description: Failure to perform monitoring of Inorganic Contaminants and report results for chemical analyses.

Effective Date: 03/23/2006

ADMINORDER 2005-0238-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(F)(iv)

Description: Failure to provide a pressure tank capacity of 20 gallons per connection.

Classification: Minor

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

Description: Failure to provide the overflow pipe on the ground storage tank with a gravity hinged and weighted cover and provide the ground storage tank with a ladder to facilitate routine inspection

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide an intruder-resistant fence in order to protect the pressure tank and ground storage tank.

Classification: Minor

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

Description: Failure to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and failure to secure all electrical wiring in conduit.

Classification: Moderate

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

Description: Failure to retain records of the results of water works operation and maintenance activities including inspections for all water storage and pressure maintenance facilities, microbiological analyses, amount of chemicals used, volume of water treated, water quality, compliants, dates of dead-end flushing, maintenance.

Classification: Moderate

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

5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failure to ensure that the Facility is at all times under the direct supervision of a competent water works operator holding a valid Class "D" or higher operator's license and failure to ensure that a Plumbing Inspector or licensed individual performed customer service inspections.

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	08/25/2005	(534367)
2	10/31/2005	(534372)
3	11/23/2005	(534370)
4	12/21/2005	(534377)
5	12/28/2006	(534950)
6	01/12/2007	(534686)

7	09/29/2008	(704102)
8	09/30/2008	(704104)
9	09/30/2008	(704106)
10	09/30/2008	(704107)
11	09/30/2008	(704108)
12	09/30/2008	(704141)
13	09/30/2008	(704142)
14	09/30/2008	(704143)
15	09/30/2008	(704144)
16	09/30/2008	(704147)
17	09/30/2008	(704149)
18	09/30/2008	(704169)
19	09/30/2008	(704170)
20	09/30/2008	(704171)
21	09/30/2008	(704172)
22	09/30/2008	(704173)
23	09/30/2008	(704174)
24	09/30/2008	(704175)
25	09/30/2008	(704176)
26	10/10/2008	(704191)

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

Date:	08/25/2005	(534367)	CN601356124
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)		
Description:	Failure to collect any routine monitoring sample(s) for 07/2005.		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)		
Description:	Failure to post PN for not collecting any routine monitoring sample(s) in 07/2005.		
Date:	10/31/2005	(534372)	CN601356124
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)		
Description:	Failure to collect any routine monitoring sample(s) for 09/2005.		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)		
Description:	Failure to post PN for not collecting any routine monitoring sample(s) in 09/2005.		
Date:	11/23/2005	(534370)	CN601356124
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)		
Description:	Failure to collect any routine monitoring sample(s) for 08/2005.		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)		
Description:	Failure to post PN for not collecting any routine monitoring sample(s) in 08/2005.		
Date:	12/21/2005	(534377)	CN601356124
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)		
Description:	Failure to collect any routine monitoring sample(s) for 11/2005.		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)		
Description:	Failure to post PN for not collecting any routine monitoring sample(s) in 11/2005.		
Date:	12/21/2006	(704102)	CN601356124
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)		
Description:	TCR Routine Monitoring Violation 11/2006 - Failure to collect any routine monitoring sample(s).		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)		
Description:	TCR PN Routine Monitoring Violation 11/2006 - Failure to post a public notice for not collecting any routine monitoring sample(s).		

Date: 02/21/2007 (704104) CN601356124
Self NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 01/2007 - Failure to post a public notice for not collecting any routine monitoring sample(s).

Self NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 01/2007 - Failure to collect any routine monitoring sample(s).

Date: 03/29/2007 (704106) CN601356124
Self NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 02/2007 - Failure to collect any routine monitoring sample(s).

Self NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 02/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 04/25/2007 (704107) CN601356124
Self NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 03/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 03/2007 - Failure to collect any routine monitoring sample(s).

Date: 05/25/2007 (704108) CN601356124
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 04/2007 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 04/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/25/2007 (704141) CN601356124
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 05/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 05/2007 - Failure to collect any routine monitoring sample(s).

Date: 07/30/2007 (704142) CN601356124
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 06/2007 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 06/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/10/2007 (704143) CN601356124
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 07/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 07/2007 - Failure to collect any routine monitoring sample(s).
 Date: 11/01/2007 (704144) CN601356124
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 08/2007 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 08/2007 - Failure to post a public notice for not collecting any routine monitoring sample(s).
 Date: 12/20/2007 (704147) CN601356124
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 09/2007 - Failure to post a public notice for not collecting any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 09/2007 - Failure to collect any routine monitoring sample(s).
 Date: 01/31/2008 (704149) CN601356124
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 10/2007 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 10/2007 - Failure to post a public notice for not collecting any routine monitoring sample(s).
 Date: 02/14/2008 (704169) CN601356124
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2007 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 02/21/2008 (704170) CN601356124
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 12/2007 - Failure to collect any routine monitoring sample(s).
 Date: 03/11/2008 (704171) CN601356124
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 01/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 04/16/2008 (704172) CN601356124
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).

Date: 04/29/2008 (704173) CN601356124

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/22/2008 (704174) CN601356124

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 04/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 04/2008 - Failure to collect any routine monitoring sample(s).

Date: 06/27/2008 (704175) CN601356124

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/31/2008 (704176) CN601356124

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

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