

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1208-PWS-E TCEQ ID: RN101216521 CASE NO.: 38037
RESPONDENT NAME: A. & P. Water Supply Corporation

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"/> IMMINENT 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 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>SITE WHERE VIOLATION(S) OCCURRED: A & P WSC Pump 1, located on Farm-to-Market Road 2517, approximately two miles east of Highway 59, Panola County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mike Bowers, Registered Agent and Secretary/Treasurer, A. & P. Water Supply Corporation, 232 County Road 4052, Carthage, Texas 75633 Respondent's Attorney: Not represented by counsel on this enforcement matter</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(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 30, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 26, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to obtain a sanitary control easement that covers the land within 150 feet of the well or to obtain Executive Director approval for a substitute to the sanitary control easement requirement [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>2) Failure to restrict livestock from occupying land within 50 feet of water supply well [30 TEX. ADMIN. CODE § 290.41(c)(1)(D)].</p> <p>3) Failure to maintain the Facility's 4,000 gallon ground storage tank in strict accordance with American Water Works Association ("AWWA") requirements [30 TEX. ADMIN. CODE § 290.43(c)(8)].</p> <p>4) Failure to provide a pressure tank capacity of 20 gallons per connection in the Well Pressure Plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$413</p> <p>Total Deferred: \$82 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$331</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 120 days after the effective date of this Agreed Order:</p> <p>i. Obtain a sanitary control easement that covers the land within 150 feet of Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the easement requirement pursuant to 30 TEX. ADMIN. CODE § 290.39; and</p> <p>ii. Obtain an exception to the requirement prohibiting livestock from occupying the land within 50 feet of the well location pursuant to 30 TEX. ADMIN. CODE § 290.39.</p> <p>b. Within 135 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 Provision a.</p> <p>c. Within 275 days after the effective date of this Agreed Order:</p> <p>i. Provide a pressure tank capacity of 20 gallons per connection in the Well Pressure Plane; and</p> <p>ii. Repair or replace the Facility's 4,000 gallon ground storage tank to ensure that the tank is being maintained in strict accordance with all AWWA requirements.</p> <p>d. Within 290 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 Provision c.</p>

Additional ID No(s): PWS ID No. 1830017

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

DATES	Assigned	29-Jun-2009	Screening	24-Jul-2009	EPA Due	
	PCW	24-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	A. & P. Water Supply Corporation
Reg. Ent. Ref. No.	RN101216521
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38037	No. of Violations	4
Docket No.	2009-1208-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		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 \$350
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	Subtotal 2, 3, & 7 \$63
Notes	The compliance history enhancement is due to two prior Notices of Violation (NOVs) that contain violations that are the same as or similar to the violations in the current enforcement action and four prior NOVs containing dissimilar violations.
Culpability	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
Economic Benefit	Subtotal 6 \$0
Total EB Amounts	\$985
Approx. Cost of Compliance	\$12,400
<small>*Capped at the Total EB \$ Amount</small>	
SUM OF SUBTOTALS 1-7	Final Subtotal \$413
OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	Final Penalty Amount \$413
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$413
DEFERRAL	Adjustment -\$82
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$331

Screening Date: 24-Jul-2009

Docket No.: 2009-1208-PWS-E

PCW

Respondent: A. & P. Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No.: 38037

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101216521

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

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	4	8%
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) 18%

>> **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 compliance history enhancement is due to two prior Notices of Violation (NOVs) that contain violations that are the same as or similar to the violations in the current enforcement action and four prior NOVs containing dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 18%

Screening Date 24-Jul-2009 **Docket No.** 2009-1208-PWS-E **PCW**
Respondent A. & P. Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38037 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101216521
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)
Violation Description Failed to obtain a sanitary control easement that covers the land within 150 feet of the well or to obtain Executive Director approval for a substitute to the sanitary control easement requirement. Specifically, there is no sanitary control easement covering the land around Well No. 1.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Failure to have a sanitary control easement in place prevents protection of the well which could result in exposure of the customers of the Facility to insignificant amounts of contaminants, which do not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: A. & P. Water Supply Corporation
Case ID No.: 38037
Reg. Ent. Reference No.: RN101216521
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)	\$200	30-Apr-2009	30-Apr-2010	1.00	\$1	\$13	\$14
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

The delayed cost includes the estimated amount to obtain a sanitary control easement or an 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)

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL:

\$14

Screening Date: 24-Jul-2009		Docket No.: 2009-1208-PWS-E		PCW
Respondent: A. & P. Water Supply Corporation			<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 38037			<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.: RN101216521		Media [Statute]: Public Water Supply		
Enf. Coordinator: Rebecca Clausewitz				
Violation Number:	2			
Rule Cite(s)	30 Tex. Admin. Code §290.41(c)(1)(D)			
Violation Description	Failed to restrict livestock from occupying land within 50 feet of a water supply well. Specifically, on the date of the investigation, livestock were noted to be occupying land that is within 30 feet of the wellhead.			
Base Penalty				\$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"/>	X	<input type="text"/>
				Percent <input type="text" value="10%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	Failure to keep livestock at least 50 feet from the well could expose the Facility's source of water to a significant amount of contaminants, which would not exceed levels that are protective of human health.			
Adjustment				\$900
				\$100
Violation Events				
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="85"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	X		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One quarterly event is recommended, calculated from the date of the investigation, April 30, 2009, to the date of case screening, July 24, 2009.				
Good Faith Efforts to Comply		0.0% Reduction		50
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	X	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$100
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$14"/>		Violation Final Penalty Total <input type="text" value="\$118"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$118"/>

Economic Benefit Worksheet

Respondent A. & P. Water Supply Corporation
Case ID No. 38037
Reg. Ent. Reference No. RN101216521
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

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)	\$200	30-Apr-2009	30-Apr-2010	1.00	\$1	\$13	\$14
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: The delayed cost includes the estimated amount to obtain an exception to the rule requirement that is approved by the Commission, 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)

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$200	TOTAL	\$14	
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Screening Date: 24-Jul-2009	Docket No.: 2009-1208-PWS-E	PCW	
Respondent: A. & P. Water Supply Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.: 38037	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.: RN101216521			
Media [Statute]: Public Water Supply			
Enf. Coordinator: Rebecca Clausewitz			
Violation Number: 3			
Rule Cite(s):	30 Tex. Admin. Code § 290.43(c)(8)		
Violation Description:	Failed to maintain the Facility's 4,000 gallon ground storage tank in strict accordance with American Water Works Association ("AWWA") requirements. Specifically, the storage tank is severely corroded and tuberculation can be seen covering the bottom of its interior.		
Base Penalty:		\$1,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Percent			10%
>> Programmatic Matrix			
Falsification			
Major Moderate Minor			
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			Percent 0%
Matrix Notes	Failure to maintain the ground storage tank could result in exposure of the customers of the Facility to significant amounts of contaminants, which would not exceed levels that are protective of human health.		
Adjustment:			\$900
			\$100
Violation Events			
Number of Violation Events: 1		Number of violation days: 85	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty \$100
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended, calculated from the date of the investigation, April 30, 2009, to the date of case screening, July 24, 2009.			
Good Faith Efforts to Comply		0.0% Reduction	\$0
		Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes:	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal:			\$100
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount: \$140		Violation Final Penalty Total: \$118	
		This violation Final Assessed Penalty (adjusted for limits): \$118	

Economic Benefit Worksheet

Respondent: A. & P. Water Supply Corporation
Case ID No.: 38037
Reg. Ent. Reference No.: RN101216521
Media: Public Water Supply
Violation No.: 3

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)	\$2,000	30-Apr-2009	30-Apr-2010	1.00	\$7	\$133	\$140
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: The delayed amount includes the estimated amount to repair the ground storage tank, 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)

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$2,000	TOTAL	\$140
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Screening Date: 24-Jul-2009	Docket No.: 2009-1208-PWS-E	PCW	
Respondent: A. & P. Water Supply Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.: 38037	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.: RN101216521			
Media [Statute]: Public Water Supply			
Enf. Coordinator: Rebecca Clausewitz			
Violation Number: 4			
Rule Cite(s):	30 Tex. Admin. Code § 290.45(b)(1)(C)(iv) and Tex. Health & Safety Code § 341.0315(c)		
Violation Description:	Failed to provide a pressure tank capacity of 20 gallons per connection in the Well Pressure Plane. Specifically, with 116 total connections, the Facility should have a minimum pressure tank capacity of 2,320 gallons. Currently, the Facility maintains a 2,000 gallon pressure tank in the Well Pressure Plane, which is a 14% deficiency.		
Base Penalty:	\$1,000		
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Percent			10%
>> Programmatic Matrix			
Falsification			
Major Moderate Minor			
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Percent			0%
Matrix Notes	Without sufficient pressure tank capacity, customers of the Facility could experience low water pressure and could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.		
Adjustment:			\$900
			\$100
Violation Events			
Number of Violation Events		1	Number of violation days
		85	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended, calculated from the date of the investigation, April 30, 2009, to the date of case screening, July 24, 2009.			\$100
Good Faith Efforts to Comply		0.0% Reduction	
		\$0	
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal			\$100
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		\$817	Violation Final Penalty Total
			\$118
This violation Final Assessed Penalty (adjusted for limits)			\$118

Economic Benefit Worksheet

Respondent A. & P. Water Supply Corporation
Case ID No. 38037
Reg. Ent. Reference No. RN101216521
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$10,000	30-Apr-2009	30-Jun-2010	1.17	\$39	\$778	\$817
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

The delayed cost includes the estimated amount to purchase and install a 500 gallon pressure tank so that a minimum pressure tank capacity of 20 gallons per connection is provided, 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)

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$817

Compliance History Report

Customer/Respondent/Owner-Operator: CN600658843 A. & P. Water Supply Corporation Classification: Rating:
Regulated Entity: RN101216521 A & P WSC PUMP 1 Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1830017
WATER LICENSING LICENSE 1830017
Location: ON FM 2517 2.0 MILES EAST OF HWY 59 IN PANOLA CO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: July 24, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 24, 2004 to July 24, 2009

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

Name: Rebecca Clausewitz Phone: (210) 403-4012

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 judgments, 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	04/03/2006	(455480)
2	02/05/2008	(652087)
3	07/30/2008	(722560)
4	08/28/2008	(722722)
5	09/05/2008	(699803)
6	11/03/2008	(722724)
7	01/15/2009	(722943)
8	06/26/2009	(746126)

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

Date: 04/03/2006 (455480) CN600658843
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to obtain a sanitary control easement for well #1.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to compile and maintain a plant operations and maintenance manual.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to maintain vent screen on the standpipe.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(7)
Description: Failure to maintain appurtenances tight against leakage.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to perform customer service inspections on connections that may be required to have a back-flow prevention devices installed.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
Description: Failure to maintain an adequate chlorine residual throughout the distribution system.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
Description: Failure to maintain records of water works operations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
Description: Failure to perform annual inspections on all storage tanks.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain all equipment in good condition.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: Failure to install a filter on the air injection line.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
Description: Failure to maintain the map of the distribution up-to-date.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
Description: Failure to provide ANSI/NSF certification on disinfecting chemicals.

Date: 02/05/2008 (652087) CN600658843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.

Date: 07/30/2008 (722560) CN600658843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

Date: 08/28/2008 (722722) CN600658843
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

Date: 09/10/2008 (699803) CN600658843
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to obtain a sanitary control easement for well #1.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to compile and maintain a plant operations and maintenance manual.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
 Description: Failure to maintain vent screen on the standpipe.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(7)
 Description: Failure to maintain appurtenances tight against leakage.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
 Description: Failure to perform customer service inspections on connections that may be required to have a back-flow prevention devices installed.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
 Description: Failure to maintain records of water works operations.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failure to perform annual inspections on all storage tanks.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain all equipment in good condition.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
 Description: Failure to install a filter on the air injection line.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
 Description: Failure to maintain the map of the distribution up-to-date.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
 Description: Failure to provide ANSI/NSF certification on disinfecting chemicals.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)
 Description: Failure to maintain setbacks to livestock.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
 Description: Failure to maintain seal on a wellhead.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
 Description: Failure to provide an adequately sloped well sealing block.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to provide the ground storage tank with a proper vent.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to maintain storage tanks in according with AWWA standards.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
Description: Failure to provide the minimum elevated storage tank/pressure tank capacity.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure to calibrate a well meter.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
Description: Failure to install wiring in conduit.

Date: 11/03/2008 (722724) CN600658843
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

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
A. & P. WATER SUPPLY
CORPORATION
RN101216521**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1208-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 A. & P. Water Supply Corporation ("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 on Farm-to-Market Road 2517, approximately two miles east of Highway 59, Panola County, Texas (the "Facility") that has approximately 196 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 July 1, 2009.
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 Thirteen Dollars (\$413) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Thirty-One Dollars (\$331) of the administrative penalty and Eighty-Two Dollars (\$82) 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:

1. Failed to obtain a sanitary control easement that covers the land within 150 feet of the well or to obtain executive director approval for a substitute to the sanitary control easement requirement, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on April 30, 2009.
2. Failed to restrict livestock from occupying land within 50 feet of water supply well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(D), as documented during an investigation conducted on April 30, 2009.
3. Failed to maintain the Facility's 4,000 gallon ground storage tank in strict accordance with American Water Works Association ("AWWA") requirements, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8), as documented during an investigation conducted on April 30, 2009.
4. Failed to provide a pressure tank capacity of 20 gallons per connection in the Well Pressure Plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on April 30, 2009.

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: A. & P. Water Supply Corporation, Docket No. 2009-1208-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 120 days after the effective date of this Agreed Order:
 - i. Obtain a sanitary control easement that covers the land within 150 feet of Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the easement requirement pursuant to 30 TEX. ADMIN. CODE § 290.39; and
 - ii. Obtain an exception to the requirement prohibiting livestock from occupying the land within 50 feet of the well location pursuant to 30 TEX. ADMIN. CODE § 290.39.
 - b. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 275 days after the effective date of this Agreed Order:
 - i. Provide a pressure tank capacity of 20 gallons per connection in the Well Pressure Plane, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - ii. Repair or replace the Facility's 4,000 gallon ground storage tank to ensure that the tank is being maintained in strict accordance with all AWWA requirements, in accordance with 30 TEX. ADMIN. CODE § 290.43.
 - d. Within 290 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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



For the Executive Director

Date 1/19/2010

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.



Signature

Date 9-20-09

Mike Bowers

Name (Printed or typed)
Authorized Representative of
A. & P. Water Supply Corporation

Sally/Treasurer

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.