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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0529-PWS-E **TCEQ ID:** RN101201036 **CASE NO.:** 39452
RESPONDENT NAME: Anderson Water Company, Inc.

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: Shiro Water System, northeast of the intersection of County Road 233 and State Highway 30, Grimes County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 August 23, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Rickey Wehmeyer, President, Anderson Water Company, Inc., P.O. Box 447, Anderson, Texas 77830 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2010-0529-PWS-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 3, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 15, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failure to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to secure a sanitary control easement covering all property within 150 feet of the Facility's well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p>	<p>Total Assessed: \$157</p> <p>Total Deferred: \$31 <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: \$126</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that, on March 1, 2010, the TCEQ received from the Respondent a written request for an exception to the rule requiring sanitary control easements for all wells serving the Facility.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, obtain a sanitary control easement that covers the land within 150 feet of the Facility's well or obtain Commission approval of an exception to the easement requirement;</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision d and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 365 days after the effective date of this Agreed Order, provide a total storage capacity of at least 200 gallons per connection; and</p> <p>d. Within 380 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. 0930014



Penalty Calculation Worksheet (PCW)

DATES	Assigned	22-Mar-2010	Screening	5-Apr-2010	EPA Due	
	PCW	24-Mar-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Anderson Water Company, Inc.		
Reg. Ent. Ref. No.	RN101201036		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39452	No. of Violations	2
Docket No.	2010-0529-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Anna Meier
		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**

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: Enhancement due to one NOV that contains violations that are the same as those in the current enforcement action.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit **Subtotal 6**

Total EB Amounts	\$1,787	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,190	

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 **Adjustment**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date: 5-Apr-2010

Docket No. 2010-0529-PWS-E

PCW

Respondent: Anderson Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39452

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101201036

Media [Statute]: Public Water Supply

Enf. Coordinator: Anna Meier

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

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

Enhancement due to one NOV that contains violations that are the same as those in the current enforcement action.

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

Screening Date: 5-Apr-2010

Docket No.: 2010-0529-PWS-E

PCW

Respondent: Anderson Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No.: 39452

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101201038

Media [Statute]: Public Water Supply

Enf. Coordinator: Anna Meier

Violation Number: 1

Rule Cite(s):

30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description:

Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the record review, it was documented that the Facility had 83 connections but a total storage capacity of 12,000 gallons instead of the required 16,600 gallons, making the Facility 27.7 percent deficient in total storage capacity.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes:

Failure to provide adequate storage capacity could result in water outages and low pressure problems, and could expose consumers to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment: \$900

\$100

Violation Events

Number of Violation Events: 1

33 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$100

One quarterly event is recommended, calculated from the date of the record review, March 3, 2010, to the date of screening, April 5, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to ED/PRP/Settlement
Extraordinary		
Ordinary		
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: \$1,730

Violation Final Penalty Total: \$105

This violation Final Assessed Penalty (adjusted for limits): \$105

Economic Benefit Worksheet

Respondent: Anderson Water Company, Inc.
Case ID No.: 39452
Reg. Ent. Reference No.: RN101201036
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
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No commas or \$

Delayed Costs

Equipment	\$9,890	20-Mar-2008	18-Sep-2010	2.50	\$82	\$1,647	\$1,730
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 necessary to provide a minimum storage capacity of 200 gallons per connection. The date required is the date of the investigation initially documenting the violation. The final date is the estimated compliance date.

Avoided Costs

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

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

\$9,890

TOTAL

\$1,730

Screening Date: 5-Apr-2010

Docket No.: 2010-0529-PWS-E

PCW

Respondent: Anderson Water Company, Inc.

Policy Revision 2 (September 2002)

Case ID No.: 39452

PCW Revision October 30, 2009

Reg. Ent. Reference No.: RN101201036

Media [Statute]: Public Water Supply

Enf. Coordinator: Anna Meier

Violation Number: 2

Rule Cite(s):

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description:

Failed to secure a sanitary control easement covering all property within 150 feet of the Facility's well. Specifically, at the time of the record review, it was documented that the Respondent had not obtained a sanitary control easement from adjacent property owners and had not been granted an exception.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes: Failure to secure a sanitary control easement could expose customers of the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment: \$950

\$50

Violation Events

Number of Violation Events: 1 33 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty: \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes:

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

Violation Subtotal: \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$37

Violation Final Penalty Total: \$53

This violation Final Assessed Penalty (adjusted for limits): \$53

Economic Benefit Worksheet

Respondent: Anderson Water Company, Inc.
Case ID No.: 39452
Reg. Ent. Reference No.: RN101201036
Media: Public Water Supply
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$300	20-Mar-2008	18-Sep-2010	2.50	\$37	n/a	\$37
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 costs include the estimated amount to obtain a sanitary control easement and have it recorded in the county deed records or apply for and obtain an exception to the easement requirement from the TCEQ. The date required is the date of the investigation initially documenting the violation. The final date is the estimated compliance date.

Avoided Costs

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

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

\$300

TOTAL

\$37

Compliance History Report

Customer/Respondent/Owner-Operator: CN600629810 Anderson Water Company, Inc. Classification: Rating:
Regulated Entity: RN101201036 SHIRO WATER SYSTEM Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0930014
WATER LICENSING LICENSE 0930014
Location: northeast of the intersection of County Road 233 and State Highway 30, Grimes County, Texas
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: April 05, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 05, 2005 to April 05, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Anna Meier Phone: (512) 239-1370

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.
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 | 04/29/2008 | (637576) |
| 2 | 06/10/2008 | (681875) |
| 3 | 12/03/2008 | (707126) |
| 4 | 01/28/2009 | (722567) |
| 5 | 01/27/2010 | (788165) |
| 6 | 03/17/2010 | (794286) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|-----------------------|
| Date: | 04/29/2008 | (637576) | CN600629810 |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)
5A THSC Chapter 341, SubChapter A 341.0315(a)(1) | | |
| Description: | Failure to have the required total storage capacity. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii) | | |
| Description: | Failure to have the required service pump capacity. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to provide a sanitary easement at the time of this investigation on March 20, 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
ANDERSON WATER COMPANY,
INC.
RN101201036**

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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0529-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 Anderson Water Company, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply northeast of the intersection of County Road 233 and State Highway 30 in Grimes County, Texas (the "Facility") that has approximately 83 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 March 20, 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 One Hundred Fifty-Seven Dollars (\$157) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Twenty-Six Dollars (\$126) of the administrative penalty and Thirty-One Dollars (\$31) 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 recognizes that, on March 1, 2010, the TCEQ received from the Respondent a written request for an exception to the rule requiring sanitary control easements for all wells serving the Facility.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on March 3, 2010.
2. Failed to secure a sanitary control easement covering all property within 150 feet of the Facility's well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during a record review conducted on March 3, 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: Anderson Water Company, Inc., Docket No. 2010-0529-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 90 days after the effective date of this Agreed Order, obtain a sanitary control easement that covers the land within 150 feet of the Facility's well, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain Commission approval of an exception to the easement requirement pursuant to 30 TEX. ADMIN. CODE § 290.39(1);
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a;
 - c. Within 365 days after the effective date of this Agreed Order, provide a total storage capacity of at least 200 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
 - d. Within 380 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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 Szellier
For the Executive Director

8/13/2010
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Rickey A. Wehmeyer
Signature

06-18-10
Date

Rickey Wehmeyer
Name (Printed or typed)
Authorized Representative of
Anderson Water Company, Inc.

President
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.

