

**CAPTION: Docket No. 2010-1695-PWS-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of B and B Water Supply Corporation in Navarro County; RN101436772; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Stephen Thompson, Laurie Eaves)**

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1695-PWS-E **TCEQ ID:** RN101436772 **CASE NO.:** 40550  
**RESPONDENT NAME:** B and B Water Supply Corporation

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

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

**SITE WHERE VIOLATION(S) OCCURRED:** B & B WSC, located at the intersection of Farm-to-Market Road 1126 and State Highway 31, Navarro County

**TYPE OF OPERATION:** Public water supply

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on May 2, 2011. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**Respondent:** Mr. Bobby Armstrong, Manager, B and B Water Supply Corporation, 1501 North 45th Street, Apartment C, Corsicana, Texas 75110  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 21, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 28, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>1) Failed to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>2) Failed to provide a total pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$210</p> <p><b>Total Deferred:</b> \$42  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$168</p> <p><b>Compliance History Classifications:</b>            Person/CN – N/A            Site/RN – N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order:</p> <p>i. Provide a total storage capacity of 200 gallons per connection in pressure plane No. 1; and</p> <p>ii. Provide a total pressure tank capacity of 20 gallons per connection in pressure plane No. 1.</p> <p>b. 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 a.</p>

Additional ID No(s): PWS ID No. 1750028



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	28-Sep-2010	<b>Screening</b>	13-Oct-2010	<b>EPA Due</b>	
	<b>PCW</b>	5-Nov-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	B and B Water Supply Corporation
<b>Reg. Ent. Ref. No.</b>	RN101436772
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	40550	<b>Order Type</b>	1660
<b>Docket No.</b>	2010-1695-PWS-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Stephen Thompson
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$200
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.
<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$10

Notes: Enhancement for one NOV with same/similar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$5,043
Approx. Cost of Compliance	\$32,790

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$210
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$210
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$210
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$42
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$168
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Screening Date 13-Oct-2010

Docket No. 2010-1695-PWS-E

PCW

Respondent B and B Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 40550

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101436772

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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 for one NOV with same/similar violations.

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

Screening Date 13-Oct-2010

Docket No. 2010-1695-PWS-E

PCW

Respondent B and B Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 40550

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101436772

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(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 serves 528 connections in pressure plane no. 1 and is required to provide a storage capacity of 105,600 gallons. Currently the Facility provides only 95,000 gallons of storage capacity in pressure plane no. 1, which is an 11% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to provide adequate storage capacity may result in water outages which could lead to backflow and siphonage which could introduce a significant amount of contaminants which would not exceed levels protective of human health into the drinking water supply.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 22

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the record review, September 21, 2010, to the date of screening, October 13, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,505

Violation Final Penalty Total \$105

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

## Economic Benefit Worksheet

**Respondent** B and B Water Supply Corporation  
**Case ID No.** 40550  
**Reg. Ent. Reference No.** RN101436772  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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
<b>Engineering/construction</b>	<b>\$22,790</b>	<b>20-Jan-2010</b>	<b>1-Apr-2012</b>	<b>2.20</b>	<b>\$167</b>	<b>\$3,338</b>
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 costs include the estimated amount necessary to provide an additional 10,600 gallons of storage capacity, calculated from the date of the investigation originally documenting the violation to the estimated date of compliance.

### 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 \$22,790

**TOTAL** \$3,505

Screening Date 13-Oct-2010

Docket No. 2010-1695-PWS-E

PCW

Respondent B and B Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 40550

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101436772

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a total pressure tank capacity of 20 gallons per connection. Specifically, at the time of the record review, it was documented that the Facility serves 528 connections in pressure plane no. 1 and is required to provide a pressure tank capacity of 10,560 gallons. Currently the Facility provides only 9,000 gallons of pressure tank capacity in pressure plane no. 1, which is a 17% deficiency.

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 pressure tank capacity may result in low water pressure which could lead to backflow and siphonage which could introduce a significant amount of contaminants which would not exceed levels protective of human health into the drinking water supply.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

22 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the record review, September 21, 2010, to the date of screening, October 13, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,538

Violation Final Penalty Total \$105

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

## Economic Benefit Worksheet

**Respondent** B and B Water Supply Corporation  
**Case ID No.** 40550  
**Req. Ent. Reference No.** RN101436772  
**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	\$10,000	20-Jan-2010	1-Apr-2012	2.20	\$73	\$1,465	\$1,538
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 costs include the estimated amount necessary to provide an additional 1,560 gallons of pressure tank capacity, calculated from the date of the investigation originally documenting the violation to the estimated date of compliance.

### 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

\$10,000

**TOTAL**

\$1,538

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603548785 B and B Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101436772 B & B WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1750028
	WATER LICENSING	LICENSE	1750028
Location:	INTERSECTION OF FM 1126 & HWY 31, NAVARRO COUNTY, TX		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	October 15, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 15, 2005 to October 15, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Stephen Thompson	Phone:	(512) 239-2558

## 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 06/28/2006 (465453)
  - 2 04/07/2010 (794215)
  - 3 09/21/2010 (864862)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - Date: 03/16/2010 (794215)CN603548785
  - Self Report? NO Classification: Moderate
  - Citation: 30 TAC Chapter 290, SubChapter D 290.45(a)
  - Description: Failure to provide a total storage capacity of 200 gallons per connection.
  - Self Report? NO Classification: Minor
  - Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
  - Description: Failure to provide adequate Purchase Production Capacity of .60 gallons/connection.
  - Self Report? NO Classification: Minor
  - Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
  - Description: Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection.
- 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  
B AND B WATER SUPPLY  
CORPORATION  
RN101436772**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2010-1695-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 B and B 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 at the intersection of Farm-to-Market Road 1126 and State Highway 31 in Navarro County, Texas (the "Facility") that has approximately 686 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 October 3, 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 Two Hundred Ten Dollars (\$210) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Sixty-Eight Dollars (\$168) of the administrative penalty and Forty-Two Dollars (\$42) 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 provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on September 21, 2010.
2. Failed to provide a total pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on September 21, 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: B and B Water Supply Corporation, Docket No. 2010-1695-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 365 days after the effective date of this Agreed Order:

- i. Provide a total storage capacity of 200 gallons per connection in pressure plane no. 1, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
- ii. Provide a total pressure tank capacity of 20 gallons per connection in pressure plane no. 1, in accordance with 30 TEX. ADMIN. CODE § 290.45.

- b. 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.a. 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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

4.13.2011  
\_\_\_\_\_  
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.

  
\_\_\_\_\_  
Signature

2-28-11  
\_\_\_\_\_  
Date

Bobby ARMSTRONG  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
B and B Water Supply Corporation

MANAGER  
\_\_\_\_\_  
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.