

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1965-PWS-E TCEQ ID: RN101456762 CASE NO.: 27418
RESPONDENT NAME: TEMPE WATER SUPPLY CORPORATION

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 2120 Highway 190 West, Polk County

TYPE OF OPERATION: Public water system—residential and wholesale water provider

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There was one complaint. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. 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 August 27, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
 TCEQ Enforcement Coordinator: Mr. Samuel Short, Air Enforcement Section, MC 219, (512) 239-5363
 TCEQ Regional Contact: Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838
 Respondent: Mr. Walter B. Knebel, Registered Agent, Tempe Water Supply Corporation, 2120 Highway 190 West, Livingston, Texas 77351 and Mr. Corry T. Jones, President, Tempe Water Supply Corporation, Rt. 1 Box 75, Moscow, Texas 75960
 Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: August 22, 2005</p> <p>Date of Investigation Relating to this Case: August 22, 2005</p> <p>Date of NOE Relating to this Case: November 14, 2005</p> <p>Background Facts:</p> <p>An EDPRP was filed on April 12, 2006. The Respondent received notice of the EDPRP on April 14, 2006. An EDFARP was filed on March 1, 2007. The Respondent received notice of the EDFARP on March 5, 2007, and March 10, 2007. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PWS:</p> <p>1. Failed to issue a boil water notification to affected customers within 24 hours of a water outage [30 TEX. ADMIN. CODE § 290.46(q)(1)].</p> <p>2. Failed to operate the public water system to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions [30 TEX. ADMIN. CODE § 290.46(r)].</p>	<p>Total Assessed: \$650</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$650</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of the proposed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</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 the Respondent has implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> 1. Posted a boil water notice on August 22, 2005. 2. Restored service to the affected service connections on August 27, 2005, which restored pressure to the distribution system.

Penalty Calculation Worksheet (PCW) PCW Revision May 19, 2005



Policy Revision 2 (September 2002)

DATES
 Assigned PCW: 21-Nov-2005 / 27-Feb-2007
 Screening: 30-Nov-2005
 EPA Due:

RESPONDENT/FACILITY INFORMATION
 Respondent: Tempe Water Supply Corporation
 Reg. Ent. Ref. No.: RN101456762
 Facility/Site Region: 10-Beaumont <| Major/Minor Source: Minor Source <|

CASE INFORMATION
 Enf./Case ID No.: 27418
 Docket No.: 2005-1965-PWS-E
 Media Program(s): Public Water Supply <|
 Multi-Media:
 Admin. Penalty \$ Limit Minimum: \$50 Maximum: \$1,000
 No. of Violations: 2
 Order Type: 1660 <|
 Enf. Coordinator: Samuel Short
 EC's Team: Enforcement Team 4 <|

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1: \$500

ADJUSTMENTS (+/-) TO SUBTOTAL 1
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.
 Compliance History: 30% Enhancement Subtotals 2, 3, & 7: \$150
 Notes: The respondent has been issued one Notice of Violation (NOV) letter for same or similar violations and one Agreed Order within the past five years.

Culpability: No <| 0% Enhancement Subtotal 4: \$0
 Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply: 0% Reduction Subtotal 5: \$0
Before NOV NOV to EDRP/Settlement Offer
 Extraordinary:
 Ordinary:
 N/A: X (mark with a small x)
 Notes: No good faith reduction in default situation.

Economic Benefit: 0% Enhancement* Subtotal 6: \$0
*Capped at the Total EB \$ Amount
 Total EB Amounts: \$362
 Approx. Cost of Compliance: \$65,300

SUM OF SUBTOTALS 1-7 Final Subtotal: \$650

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment: \$0
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)
 Notes:
Final Penalty Amount: \$650

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty: \$650

DEFERRAL 0% Reduction Adjustment: \$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)
 Notes: No deferral offered due to non-expedited settlement.

PAYABLE PENALTY \$650

Screening Date 30-Nov-2005 Docket No. 2005-1965-PWS-E

PCW

Respondent Tempe Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 27418

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101456762

Media [Statute] Public Water Supply

Enf. Coordinator Samuel Short

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	1	5%
	Other written NOV's	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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
Convictions	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%
	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 disclosed)	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%
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) 30%

>> 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 respondent has been issued one Notice of Violation (NOV) letter for same or similar violations and one Agreed Order within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 30-Nov-2005

Docket No. 2005-1965-PWS-E

PCW

Respondent Tempe Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 27418

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101456762

Media [Statute] Public Water Supply

Enf. Coordinator: Samuel Short

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

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="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x

daily	<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

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 Tempe Water Supply Corporation
 Case ID No. 27418
 Reg. Ent. Reference No. RN101456762
 Media [Statute] Public Water Supply
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost (No commas or \$)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs:

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$300	20-Aug-2005	22-Aug-2005	0.0	\$0	\$300	\$300

Notes for AVOIDED costs:

Estimated cost to post a boil water notice. The beginning date is the date the system was required to issue a boil water notification. The end date is the compliance date.

Approx. Cost of Compliance

TOTAL

Screening Date 30-Nov-2005

Docket No. 2005-1965-PWS-E

PCW

Respondent Tempe Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 27418

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101456762

Media [Statute] Public Water Supply

Enf. Coordinator Samuel Short

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

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="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<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

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 Tempe Water Supply Corporation
 Case ID No. 27418
 Reg. Ent. Reference No. RN101456762
 Media [Statute] Public Water Supply
 Violation No. 2

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	\$65,000	22-Aug-2005	27-Aug-2005	0.0	\$3	\$59	\$62
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to provide the minimum pressure requirements under normal operating conditions. The beginning date is the date the system lost water pressure. The end date is the compliance date.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Interest Saved	Onetime Costs	EB Amount
Disposal	0.0	\$0	\$0	\$0
Personnel	0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.0	\$0	\$0	\$0
Supplies/equipment	0.0	\$0	\$0	\$0
Financial Assurance [2]	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.0	\$0	\$0	\$0
Other (as needed)	0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN600636484 Tempe Water Supply Corporation Classification: Rating: 0.000
Regulated Entity: RN101456762 TEMPE WSC Classification: Site Rating: 0.00
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1870105
WATER LICENSING LICENSE 1870105
Location: 2120 HIGHWAY 190 WEST IN POLK COUNTY, TEXAS
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: November 23, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 1, 2000 to December 1, 2005

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

Name: Amanda King-Zrubek Phone: (512) 239-0824

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 of the site during the compliance period? Yes
3. If Yes, who is the current owner? Tempe Water Supply Corporation
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Comments:

Components (Multimedia) for the Site :

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

Effective Date: 6/20/02

ADMINORDER 2001-0818-PWS-E

Classification: Moderate

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

Citation: 2.i.iii ORDER

Description: Failure to provide a total storage capacity of 200 gpm per connection at plant no. 2.

Classification: Moderate

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

Citation: 2.i.iv ORDER

Description: Failure to provide two or more service pumps having a total capacity of 2.0 gpm per connection at plant No. 2.

Classification: Moderate

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

Citation: 2.i.iv ORDER

Description: Failure to provide two or more service pumps having a total capacity of 2.0 gpm per connection.

Classification: Moderate

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

Citation: 2.i.ii ORDER

Description: Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection at plant No. 2.

Classification: Moderate

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

Citation: 2.i.ii ORDER

Description: Failure to provide a pressure tank capacity of 20 gpm per connection at plant No. 1.

Classification: Moderate

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

Description: Failure to maintain operational records detailing the dates dead-end mains were flushed.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(D)

Description: Failure to provide facilities for determining the amount of disinfectant used daily as well as the amount of disinfectant remaining.

Classification: Moderate

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

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

Description: Failure to maintain a minimum chlorine residual of 0.2 mg/L in the far reachesh of the distribution system.

Classification: Moderate

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

Description: Failure to seal the wellhead to prevent the possibility of contaminating the water supply.

Classification: Minor

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

Description: Failure to provide a flow measuring device to measure the production yields.

Classification: Minor

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

Description: Failure to install electrical wiring in a securely mounted conduit in compliance with local or national electrical codes.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)

Description: Failure to ensure that clearwells or potable water storage tanks and all associated appurtenances are thoroughly tight against leakage.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)[G]

Description: Failure to monitor the disinfection levels at sites designed in the Facility's monitoring plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to maintain a complete monitoring plan at the plant for review.

Classification: Moderate

Citation: 2B TWC Chapter 13, SubChapter A 13.139(d)

30 TAC Chapter 291, SubChapter F 291.93(3)

Citation: 2.e.vi ORDER

Description: Failure to submit a planning report that clearly explains how the retail public utility will provide the expected service demands within the boundaries of its certificated area.

3. Any criminal convictions of the state of Texas and the federal government.

N/A

4. Chronic excessive emissions events.

N/A

5. The approval dates of investigations. (CEEDS Inv. Track. No.)

1 05/01/2001 (IE0012012003005)

2 03/24/2004 (263834)

3 10/14/2002 (152014)

6. Written notices of violations (NOV). (CEEDS Inv. Track. No.)

Date: 10/14/2002 (152014)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.106(a)(1)

Description: Failure to develop a Sample Siting Plan and retain the plan for Commission review.

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)[G]

Description: Failure to maintain a map of the distribution system.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46[G]
Description: Failure to post a legible sign with the name of water supply and emergency telephone number.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to initiate a maintenance program for cleanliness of the Facility.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide a proper intruder resistant fence around the water storage tank.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the exterior coatings of the pressure tanks.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to maintain the exterior coatings of the stand pipe.

Self Report? NO Classification: Major
Citation: 5A THC Chapter 341, SubChapter A 341.036(g)
Description: Failure to maintain all water storage components in a water tight condition.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide proper flap valves on the overflow pipes of the ground storage tanks.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: Failure to provide the air injection line on the pressure tank with a filter device to preclude compressor lubricants.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: Failure to provide the pressure tank with a device to readily determine air-water-volume at the design water level and working pressure.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failure to provide a proper customer service inspection.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)[G]
Description: Failure to develop a through operations manual for operator review and reference.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)[G]
30 TAC Chapter 290, SubChapter D 290.46(u)
Description: Failure to maintain a minimum operating pressure of 35 pounds per square inch (psi) throughout the distribution system.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(7)
Description: Failure to provide an upper screen vent for the chlorination room.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)
Description: Failure to provide a full-face, self-contained breathing apparatus at the chlorination facilities.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)[G]
Description: Failure to comply with the "Minimum Water System Capacity Requirements".

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 291, SubChapter F 291.93[G]
Description: Failure to submit a planning report to meet expected service demands of the remaining areas within the boundaries of its certified area.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to obtain and record at the county courthouse a sanitary easement for the well site.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
Description: Failure to repair the cracked sealing block.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to seal the wellheads.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to provide screened well casing vents.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
Description: Failure to screen the air releases.

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)
Rqmt Prov: ORDER IA
Description: Failure to provide two or more service pumps having a total capacity of 2.0 gpm per connection at plant No. 2.

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
TEMPE WATER SUPPLY
CORPORATION,
RN101456762

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-1965-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Tempe Water Supply Corporation ("Tempe").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Tempe owns and operates a public water system located at 2120 Highway 190 West, Polk County, Texas (the "Facility").
2. The Facility has 610 retail service connections, 24 wholesale service connections, and serves at least 25 people per day for at least 60 days per year.
3. During a record review on August 22, 2005, a TCEQ Beaumont Regional Office investigator documented that Tempe:
 - a. Failed to issue a boil water notification to affected customers within 24 hours of a water outage. Specifically, during the record review conducted on August 22, 2005, the general manager of the water system stated that a boil water notice was not issued within 24 hours of the water system losing all pressure to approximately 50 connections on August 19, 2005; and

- b. Failed to operate the public water system to provide a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions. Specifically, during the record review conducted on August 22, 2005, the general manager of the water system stated that approximately 50 service connections had lost all water pressure (0 psi) since August 19, 2005.
4. Tempe received notice of the violations on or about November 19, 2005.
5. The Executive Director recognizes that Tempe has implemented the following corrective measures at the Facility:
 - a. Tempe posted a boil water notice on August 22, 2005; and
 - b. Tempe restored service to the affected service connections on August 27, 2005.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Tempe Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on April 12, 2006.
7. By letter dated April 12, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Tempe with notice of the EDPRP. According to the return receipt "green card", Tempe received notice of the EDPRP on April 14, 2006, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Tempe Water Supply Corporation" (the "EDFARP") in the TCEQ Chief Clerk's office on March 1, 2007.
9. By letter dated March 1, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Tempe with notice of the EDFARP. According to the return receipts "green cards", Tempe received notice of the EDFARP on March 5, 2007 and March 10, 2007, as evidenced by the signatures on the green cards.
10. More than 20 days have elapsed since Tempe received notice of the EDPRP and the EDFARP, provided by the Executive Director. Tempe failed to file an answer to the either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Tempe is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Tempe failed to issue a boil water notification to affected customers within 24 hours of a water outage, in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1).
3. As evidenced by Finding of Fact No. 3.b., Tempe failed to operate the public water system to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions, in violation of 30 TEX. ADMIN. CODE § 290.46(r).
4. As evidenced by Finding of Fact Nos. 6, 7, 8, and 9 the Executive Director has timely served Tempe with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 10, Tempe has failed to file a timely answer to either the EDPRP or the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Tempe and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Tempe for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of six hundred fifty dollars (\$650.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Tempe is assessed an administrative penalty in the amount of six hundred fifty dollars (\$650.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Tempe's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Tempe Water Supply Corporation; Docket No. 2005-1965-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Tempe. Tempe is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Tempe if the Executive Director determines that Tempe has not complied with one or more of the terms or conditions in this Order.
5. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
6. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Tempe Water Supply Corporation
DOCKET NO. 2005-1965-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF DINNIAH M. CHAHIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, Darren Ream filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Tempe Water Supply Corporation" (the "EDPRP") with the Office of the Chief Clerk on April 12, 2006.

Darren Ream sent the EDPRP to Tempe at its last known address on April 12, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card", Tempe received notice of the EDPRP on April 14, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Tempe Water Supply Corporation" (the "EDFARP") with the Office of the Chief Clerk on March 1, 2007.

I sent the EDFARP to Tempe at its last known addresses on March 1, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipts "green cards", Tempe received notice of the EDFARP on March 5, 2007 and March 10, 2007, as evidenced by the signatures on the cards.

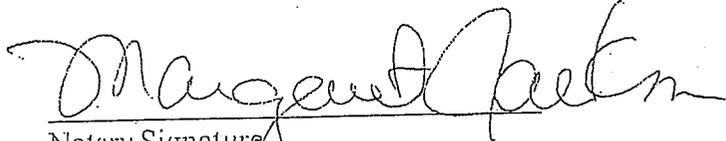
More than 20 days have elapsed since Tempe received notice of the EDPRP and the EDFARP. Tempe failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference."



Dinniah M. Chahin
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Dinniah M. Chahin, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 12 day of June, A.D., 2007.


Notary Signature

