

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0356-PWS-E **TCEQ ID:** RN101440998 **CASE NO.:** 35465

**RESPONDENT NAME:** Cayuga Water Supply Corporation

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Cayuga WSC, located two miles North of the intersection of United States 287 and State Highway 59 in Anderson County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 14, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Christopher Keffer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5610; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. David Kelley, President, Cayuga Water Supply Corporation, P.O. Box 338, Cayuga, Texas 75832                      Mr. James Alexander, Registered Agent, Cayuga Water Supply Corporation, P.O. Box 338, Cayuga, Texas 75832  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<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 Record Review Relating to this Case:</b> February 5, 2008</p> <p><b>Date of NOE Relating to this Case:</b> February 7, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM") based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$735</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$735</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</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>Findings Orders Justification:</b> This is a Findings Order because the Respondent had four NOV's with same violations over the prior five year period.</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, return to compliance with the running annual average MCL for TTHM; and</p> <p>b) Within 385 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 No. 0010019



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

<b>DATES</b>	Assigned	9-Feb-2008
	PCW	28-Feb-2008
	Screening	28-Feb-2008
	EPA Due	1-Mar-2007

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Cayuga Water Supply Corporation
Reg. Ent. Ref. No.	RN101440998
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35465	No. of Violations	1
Docket No.	2008-0356-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Christopher Keffer
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>22%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$110</b>
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Notes: The penalty is enhanced due to four NOV's with the same or similar violation and one dissimilar NOV as those in the current enforcement action.

<b>Culpability</b>	<b>Yes</b>	<b>25%</b> Enhancement	<b>Subtotal 4</b>	<b>\$125</b>
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Notes: The Respondent was issued alert letters on September 27, 2005 and March 8, 2007 concerning total trihalomethane ("TTHM") exceedances.

<b>Good Faith Effort to Comply</b>	<b>0%</b> Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	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.

<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$1,226	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$735</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$735</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$735</b>
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<b>DEFERRAL</b>	<b>0%</b> Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$735</b>
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**Screening Date** 28-Feb-2008

**Docket No.** 2008-0356-PWS-E

**PCW**

**Respondent** Cayuga Water Supply Corporation

Policy Revision 2 (September 2002)

**Case ID No.** 35465

PCW Revision January 29, 2008

**Reg. Ent. Reference No.** RN101440998

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Christopher Keffer

**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)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
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)** 22%

>> **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 penalty is enhanced due to four NOVs with the same or similar violation and one dissimilar NOV as those in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

<b>Screening Date</b> 28-Feb-2008	<b>Docket No.</b> 2008-0356-PWS-E	<b>PCW</b>
<b>Respondent</b> Cayuga Water Supply Corporation	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35465	<small>PCW Revision January 29, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101440998		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Christopher Keffer		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)	
<b>Violation Description</b>	Failed to comply with the maximum contaminant level of 0.080 milligrams per liter ("mg/L") for TTHM based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.084 mg/L for the second quarter of 2006, 0.085 mg/L for the third quarter of 2006, 0.084 mg/L for the second quarter of 2007, and 0.084 mg/L for the third quarter of 2007.	
	<b>Base Penalty</b>	\$1,000

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	x		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				<b>Percent</b> <input type="text" value="25%"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>			
	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Customers of the water supply have been exposed to significant amounts of pollutants which did not exceed levels protective of human health.			
				<b>Adjustment</b> <input type="text" value="\$750"/>

**Violation Events**

<b>Number of Violation Events</b>	<input type="text" value="2"/>	<b>Number of violation days</b>	<input type="text" value="364"/>												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	x	single event	<input type="checkbox"/>	<b>Violation Base Penalty</b>	<input type="text" value="\$500"/>
daily	<input type="checkbox"/>														
monthly	<input type="checkbox"/>														
quarterly	<input type="checkbox"/>														
semiannual	<input type="checkbox"/>														
annual	x														
single event	<input type="checkbox"/>														
Two annual events are recommended.															

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	<b>Violation Final Penalty Total</b>
<input type="text" value="\$1,226"/>	<input type="text" value="\$735"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
<input type="text" value="\$735"/>	

## Economic Benefit Worksheet

**Respondent** Cayuga Water Supply Corporation  
**Case ID No.** 35465  
**Reg. Ent. Reference No.** RN101440998  
**Media** Public Water Supply  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	31-Mar-2006	30-Sep-2009	3.5	\$58	\$1,168	\$1,226
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

The delayed costs include the amount for the water supply to implement an alternative form of disinfection, calculated from the first quarter of noncompliance to the estimated date of compliance.

**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)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$1,226
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# Compliance History

Customer/Respondent/Owner-Operator:	CN600697684 Cayuga Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101440998 CAYUGA WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0010019
	WATER LICENSING	LICENSE	0010019
Location:	LOCATED 2 MI N OF US 287 AND SH 59 IN ANDERSON CO		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	February 27, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 27, 2003 to February 27, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Christopher Keffer	Phone:	(512) 239-5610

## 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?    | No  |
| 3. If Yes, who is the current owner?                                                         | N/A |
| 4. If Yes, who was/were the prior owner(s)?                                                  | N/A |
| 5. When did the change(s) in ownership 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 | 11/17/2003 | (254639) |  |
| 2 | 08/29/2006 | (617074) |  |
| 3 | 01/02/2007 | (617715) |  |
| 4 | 05/30/2007 | (561658) |  |
| 5 | 08/03/2007 | (617718) |  |
| 6 | 11/15/2007 | (617720) |  |
| 7 | 02/11/2008 | (617989) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |                                                                                                        |          |                          |
|--------------|--------------------------------------------------------------------------------------------------------|----------|--------------------------|
| Date:        | 08/29/2006                                                                                             | (617074) |                          |
| Self Report? | NO                                                                                                     |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter F 290.113(f)(4)                                                         |          |                          |
| Description: | Violated the maximum contaminant level for trihalomethanes during the second quarter of 2006.          |          |                          |
|              |                                                                                                        |          |                          |
| Date:        | 01/02/2007                                                                                             | (617715) |                          |
| Self Report? | NO                                                                                                     |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter F 290.113(f)(4)                                                         |          |                          |
| Description: | Violated the maximum contaminant level for trihalomethanes during the third quarter of 2006.           |          |                          |
|              |                                                                                                        |          |                          |
| Date:        | 06/05/2007                                                                                             | (561658) |                          |
| Self Report? | NO                                                                                                     |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)                                                       |          |                          |
| Description: | Failure to make available documentation that sanitary control easement had been obtained for the well. |          |                          |

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(I)		
Description:	Failure to maintain a written Plant Operations Manual.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(I)(II)		
Description:	Failure to document the amount of water treatment chemicals used weekly.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 288, SubChapter B 288.20		
Description:	Failure to provide a copy of an adopted drought contingency plan.		
Date:	08/03/2007 (617718)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4)		
Description:	Violated the maximum contaminant level for trihalomethanes during the second quarter of 2007.		
Date:	11/15/2007 (617720)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4)		
Description:	Violated the maximum contaminant level for trihalomethanes during the third quarter of 2007.		

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  
CAYUGA WATER SUPPLY  
CORPORATION  
RN101440998**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0356-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cayuga 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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located two miles north of the intersection of United States Highway 287 and State Highway 59 in Anderson County, Texas (the



“Facility”) that has approximately 65 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on February 5, 2008, TCEQ central office staff documented that the Respondent did not comply with the maximum contaminant level (“MCL”) of 0.080 milligrams per liter (“mg/L”) for total trihalomethanes (“TTHM”) based on a running annual average. Specifically, the running annual average concentration for TTHM was 0.084 mg/L for the second quarter of 2006, 0.085 mg/L for the third quarter of 2006, 0.084 mg/L for the second quarter of 2007, and 0.084 mg/L for the third quarter of 2007.
3. The Respondent received notice of the violations on February 12, 2008.

## **II. CONCLUSIONS OF LAW**

1. The Respondent 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 Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.
4. An administrative penalty in the amount of Seven Hundred Thirty-Five Dollars (\$735) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Seven Hundred Thirty-Five Dollar (\$735) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of Seven Hundred Thirty-Five Dollars (\$735) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent’s compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to “TCEQ” and shall be sent with the notation “Re: Cayuga Water Supply Corporation, Docket No. 2008-0356-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. The Respondent shall undertake the following technical requirements:
- a. Within 365 days after the effective date of the Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
  - b. Within 385 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3756

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. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



239-0036

Cayuga Water Supply Corporation  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission:

*John Srdler*  
For the Executive Director

6/24/08  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Cayuga Water Supply Corporation. I am authorized to agree to the attached Agreed Order on behalf of Cayuga Water Supply Corporation, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand the by entering into this Agreed Order, Cayuga Water Supply Corporation waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, the right to an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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 remedies authorized by law.

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

*David Kelley*  
Signature

June 19, 2008  
Date

David Kelley  
Name (Printed or Typed)  
Authorized Representative  
Cayuga Water Supply Corporation

Board President  
Title

Instructions: Send the original signed Agreed Order with penalty payment to the Financial Administration Division, Enforcement Section at the address in Section IV, last part of the Agreed Order.

