

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 3

DOCKET NO.: 2009-1005-PWS-E **TCEQ ID:** RN101197549 **CASE NO.:** 37878**RESPONDENT NAME:** Kempner Water Supply Corporation

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Kempner WSC, 11896 Highway 190, Kempner, Lampasas County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 12, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Robert H. McDonald, President, Kempner Water Supply Corporation, P.O. Box 103, Kempner, Texas 76539 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 8, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 4, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to make the Facility's operating records accessible for review during an inspection [30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(D)(ii)].</p> <p>2) Failure to install air release devices in the distribution system in such a manner as to preclude the possibility of submergence or possible entrance of contaminants [30 TEX. ADMIN. CODE § 290.44(d)(1)].</p> <p>3) Failure to provide a properly constructed intruder-resistant fence around all storage tanks and pressure maintenance facilities [30 TEX. ADMIN. CODE § 290.43(e)].</p> <p>4) Failure to provide a minimum pressure of 35 pounds per square inch throughout the distribution system under normal operating conditions [30 TEX. ADMIN. CODE § 290.46(r)].</p> <p>5) Failure to equip all air compressor injection lines with filters or other devices to prevent compressor lubricants or other contaminants from entering the pressure tank [30 TEX. ADMIN. CODE § 290.43(d)(3)].</p> <p>6) Failure to obtain approval under the exemption guidelines of 30 TEX. ADMIN. CODE § 290.39(l) to use a primary disinfectant other than chlorine [30 TEX.</p>	<p>Total Assessed: \$1,762</p> <p>Total Deferred: \$352 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,410</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input 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> <p>a. On April 16, 2009, the Respondent submitted documentation demonstrating that:</p> <ul style="list-style-type: none"> i. Current tank inspection reports were being maintained at the Facility; ii. All air release devices had been properly screened; and iii. An inline filter had been installed on the air compressor line at the Stone Oaks Plant. <p>b. On April 17, 2009, the Respondent submitted documentation demonstrating that the fences at the Ivy Mountain and Northeast plants had been repaired.</p> <p>c. On April 24, 2009, the Respondent submitted documentation demonstrating that the water system was consistently maintaining adequate pressure throughout the system; and</p> <p>d. On June 5, 2009, the Respondent's exception request to use chloramine as a disinfectant was granted by the TCEQ.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p> <p>2) The Order will also require the Respondent to:</p> <ul style="list-style-type: none"> a. Within 120 days after the effective date of this Agreed Order, provide two or more pumps that have a total capacity of 2.0 gpm per connection at the Hewgley pump station; and b. Within 135 days after the effective date of this Agreed Order, submit written certification and include detailed

<p>ADMIN. CODE § 290.42(e)(3)(G)].</p> <p>7) Failure to provide two or more pumps that have a total capacity of 2.0 gallons per minute ("gpm") per connection at each pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>		<p>supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>
--	--	--

Additional ID No(s): PWS ID 1410028

Attachment A
Docket Number: 2009-1005-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kempner Water Supply Corporation
Payable Penalty Amount:	One Thousand Four Hundred Ten Dollars (\$1,410)
SEP Amount:	One Thousand Four Hundred Ten Dollars (\$1,410)
Type of SEP:	Pre-approved
Third-Party Recipient:	Lower Colorado River Authority's Household Hazardous Waste and Reusable Materials Collection
Location of SEP:	Lampasas County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Lower Colorado River Authority ("LCRA") Household Hazardous Waste and Reusable Materials Collection. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Lower Colorado River Authority and the Texas Commission on Environmental Quality*. SEP monies will be used to sponsor household hazardous waste collection events, battery collection events, used oil collection events, paint collection events, and tire collection events in conjunction with local city and county governments through the LCRA Statutory District. These collection events provide citizens with a safe and convenient opportunity to properly dispose of household hazardous wastes such as: paint, tires, pesticides, motor oil, oil filters, antifreeze, batteries, and household cleaners. Citizens will be encouraged to reuse unused portions of properly labeled and handled chemical products (i.e. fertilizers, paints, and some pesticides/herbicides) through the reusable materials exchange. SEP monies will be used by LCRA to supplement scheduled events, and to add additional collection events. The LCRA has not previously budgeted for these supplemental, additional, or special collection events and will not budget for them.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a safe and convenient means for proper disposal of household hazardous waste. The program helps protect the environment, particularly the Edwards Aquifer and groundwater sources. It also discourages illegal dumping of hazardous materials by providing a convenient and free source for waste disposal.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lower Colorado River Authority
Attn: Jack Ranney
PO Box 220
Austin, Texas 78767-0220

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

Kempner Water Supply Corporation
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Jun-2009	Screening	30-Jun-2009	EPA Due	
	PCW	10-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kempner Water Supply Corporation
Reg. Ent. Ref. No.	RN101197549
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37878	No. of Violations	7
Docket No.	2009-1005-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,560

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 29.0% Enhancement Subtotals 2, 3, & 7 \$452

Notes: Enhancement is due to one NOV that contains violations that are similar to those in the current enforcement action, two dissimilar NOVs, and one agreed final enforcement order containing a denial of liability.

Culpability No 0.0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 \$289

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$8,482
Approx. Cost of Compliance \$121,638
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,723

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,723

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,762

DEFERRAL 20.0% Reduction Adjustment -\$352

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$1,410

Screening Date 30-Jun-2009

Docket No. 2009-1005-PWS-E

PCW

Respondent Kempner Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 37878

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101197549

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 NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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) 29%

>> **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 is due to one NOV that contains violations that are similar to those in the current enforcement action, two dissimilar NOVs, and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 30-Jun-2009	Docket No. 2009-1005-PWS-E	PCW		
Respondent Kempner Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37878		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101197549				
Media [Statute] Public Water Supply				
Enf. Coordinator Stephen Thompson				
Violation Number 1				
Rule Cite(s)	30 Tex. Admin. Code § 290.46(f)(2) and 290.46(f)(3)(D)(ii)			
Violation Description	Failed to make the Facility's operating records accessible for review during an inspection. Specifically, at the time of the investigation, it was documented that the inspection reports showing the dates on which the interiors of the pressure tanks at the Hewgley and Stone Oaks pump stations were last inspected were not available.			
	Base Penalty	\$1,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent		0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
		Percent		1%
Matrix Notes	The Respondent failed to meet less than 30% of the rule requirement.			
	Adjustment	\$990		
		\$10		
Violation Events				
	Number of Violation Events	1	Number of violation days	8
	<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty
		weekly	<input type="text"/>	
		monthly	<input type="text"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input checked="" type="checkbox"/>	
	One single event is recommended.			
Good Faith Efforts to Comply		25.0% Reduction		\$2
		Before NOV	NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	
	N/A	(mark with x)		
Notes	The Respondent returned to compliance on April 16, 2009.			
	Violation Subtotal	\$8		
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$0	Violation Final Penalty Total	\$11
	This violation Final Assessed Penalty (adjusted for limits)			\$50

Economic Benefit Worksheet

Respondent Kempner Water Supply Corporation
Case ID No. 37878
Reg. Ent. Reference No. RN101197549
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
Delayed Costs							
Equipment	\$50	8-Apr-2009	16-Apr-2009	0.02	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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 to ensure that the Facility's tank inspection reports are kept on file and made accessible for review, calculated from the date of the investigation to the 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

\$50

TOTAL

\$0

Screening Date 30-Jun-2009	Docket No. 2009-1005-PWS-E	PCW							
Respondent Kempner Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>							
Case ID No. 37878		<small>PCW Revision October 30, 2008</small>							
Reg. Ent. Reference No. RN101197549									
Media [Statute] Public Water Supply									
Enf. Coordinator Stephen Thompson									
Violation Number 2									
Rule Cite(s)	30 Tex. Admin. Code § 290.44(d)(1)								
Violation Description	Failed to install air release devices in the distribution system in such a manner as to preclude the possibility of submergence or possible entrance of contaminants. Specifically, at the time of the investigation, it was documented that the air release at the 195 Plant and the air release on Highway 190, about one mile from the plant, were not screened.								
	Base Penalty	\$1,000							
>> Environmental, Property and Human Health Matrix									
OR	Release	Harm							
		Major Moderate Minor							
	Actual	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td></tr></table>				Percent 25%			
	Potential	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px; text-align: center;">x</td><td style="width: 30px; height: 15px;"></td></tr></table>		x					
	x								
>> Programmatic Matrix									
	Falsification	Major Moderate Minor							
	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td></tr></table>				<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td></tr></table>				Percent 0%
Matrix Notes	Failure to properly screen the air release devices could expose customers of the water supply to significant amounts of contaminants which would not exceed levels protective of human health.								
	Adjustment	\$750							
			\$250						
Violation Events									
	Number of Violation Events	2	Number of violation days 8						
<small>mark only one with an x</small>	daily	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td></tr></table>		Violation Base Penalty \$500					
	weekly	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td></tr></table>							
	monthly	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td></tr></table>							
quarterly	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px; text-align: center;">x</td></tr></table>	x							
x									
semiannual	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td></tr></table>								
annual	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td></tr></table>								
	single event	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td></tr></table>							
	Two quarterly events (one for each location) are recommended, calculated from the date of the investigation, April 8, 2009, to the date of compliance, April 16, 2009.								
Good Faith Efforts to Comply		25.0% Reduction	\$125						
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>							
	Extraordinary	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px;"></td><td style="width: 30px; height: 15px;"></td></tr></table>			Violation Subtotal \$375				
	Ordinary	<table border="1" style="display: inline-table;"><tr><td style="width: 30px; height: 15px; text-align: center;">x</td><td style="width: 30px; height: 15px;"></td></tr></table>	x						
x									
	N/A	<small>(mark with x)</small>							
Notes	The Respondent returned to compliance on April 16, 2009.								
Economic Benefit (EB) for this violation		Statutory Limit Test							
	Estimated EB Amount	\$0	Violation Final Penalty Total \$520						
			This violation Final Assessed Penalty (adjusted for limits) \$520						

Economic Benefit Worksheet

Respondent: Kempner Water Supply Corporation
Case ID No. 37878
Reg. Ent. Reference No. RN101197549
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Item Description: No commas or \$.

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	8-Apr-2009	16-Apr-2009	0.02	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to properly screen the air release devices, calculated from the date of the investigation to the 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

\$100

TOTAL

\$0

Screening Date 30-Jun-2009	Docket No. 2009-1005-PWS-E	PCW			
Respondent Kempner Water Supply Corporation	Policy Revision 2 (September 2002)				
Case ID No. 37878	PCW Revision October 30, 2008				
Reg. Ent. Reference No. RN101197549					
Media [Statute] Public Water Supply					
Enf. Coordinator Stephen Thompson					
Violation Number 3					
Rule Cite(s)	30 Tex. Admin. Code § 290.43(e)				
Violation Description	Failed to provide a properly constructed intruder-resistant fence around all storage tanks and pressure maintenance facilities. Specifically, at the time of the investigation, it was documented that the fence at the Ivy Mountain plant had a broken strand of barbed wire along the top and the fence at the Northeast plant was not attached to the fence posts and was able to be lifted to a height of about 14 inches.				
Base Penalty		\$1,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent	
	Release	Major	Moderate		Minor
Actual				10%	
Potential			x		
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	Failure to provide properly constructed intruder-resistant fences may allow unauthorized persons to enter the Facility and expose customers of the water supply to insignificant amounts of contaminants which would not exceed levels protective of human health.				
Adjustment					\$900
					\$100
Violation Events					
Number of Violation Events		2	Number of violation days		9
<i>mark only one with an x</i>	daily		Violation Base Penalty \$200		
	weekly				
	monthly				
	quarterly				
	semiannual				
	annual				
single event	x				
Two single events (one for each location) are recommended, calculated from the date of the investigation, April 8, 2009, to the date of compliance, April 17, 2009.					
Good Faith Efforts to Comply					
		25.0% Reduction			
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary					
Ordinary	x				
N/A			(mark with x)		
Notes	The Respondent returned to compliance on April 17, 2009.				
Violation Subtotal					\$150
Economic Benefit (EB) for this violation					
Estimated EB Amount		\$0	Statutory Limit Test		
Violation Final Penalty Total					\$208
This violation Final Assessed Penalty (adjusted for limits)					\$208

Economic Benefit Worksheet

Respondent Kempner Water Supply Corporation
Case ID No. 37878
Reg. Ent. Reference No. RN101197549
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	8-Apr-2009	17-Apr-2009	0.02	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to repair the fences at the Ivy Mountain and Northeast plants, calculated from the date of the investigation to the 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

\$100

TOTAL

\$0

Screening Date 30-Jun-2009	Docket No. 2009-1005-PWS-E	PCW														
Respondent Kempner Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 37878		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN101197549																
Media [Statute] Public Water Supply																
Enf. Coordinator Stephen Thompson																
Violation Number 4																
Rule Cite(s)	30 Tex. Admin. Code § 290.46(r)															
Violation Description	Failed to provide a minimum pressure of 35 pounds per square inch (psi) throughout the distribution system under normal operating conditions. Specifically, at the time of the investigation, it was documented that the pressure at 118 County Road 4878 was 31 psi.															
	Base Penalty	\$1,000														
>> Environmental, Property and Human Health Matrix																
OR	Release	Harm														
		Major Moderate Minor														
	Actual	Potential														
	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px; text-align: center;">X</td></tr> </table>			X	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>											
X																
	Percent	10%														
>> Programmatic Matrix																
	Falsification	Major	Moderate	Minor												
	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>				<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>				<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>				<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>			
	Percent	0%														
Matrix Notes	Failure to maintain a pressure of 35 psi throughout the distribution system may expose customers of the water supply to insignificant amounts of contaminants which would not exceed levels protective of human health.															
	Adjustment	\$900														
		\$100														
Violation Events																
	Number of Violation Events	1	Number of violation days	1												
	<i>mark only one with an x</i>	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;">daily</td></tr> <tr><td style="width: 30px; height: 15px;">weekly</td></tr> <tr><td style="width: 30px; height: 15px;">monthly</td></tr> <tr><td style="width: 30px; height: 15px;">quarterly</td></tr> <tr><td style="width: 30px; height: 15px;">semiannual</td></tr> <tr><td style="width: 30px; height: 15px;">annual</td></tr> <tr><td style="width: 30px; height: 15px;">single event</td></tr> </table>	daily	weekly	monthly	quarterly	semiannual	annual	single event		Violation Base Penalty					
daily																
weekly																
monthly																
quarterly																
semiannual																
annual																
single event																
		<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px; text-align: center;">X</td></tr> </table>							X		\$100					
X																
	One single event based on the date, April 8, 2009, the pressure was tested.															
Good Faith Efforts to Comply		25.0% Reduction	\$25													
		Before NOV	NOV to EDRP/Settlement Offer													
	Extraordinary	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px;"></td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>														
	Ordinary	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr><td style="width: 30px; height: 15px; text-align: center;">X</td></tr> <tr><td style="width: 30px; height: 15px;"></td></tr> </table>	X													
X																
	N/A	(mark with x)														
	Notes	The Respondent returned to compliance on April 24, 2009.														
		Violation Subtotal	\$75													
Economic Benefit (EB) for this violation		Statutory Limit Test														
	Estimated EB Amount	\$150	Violation Final Penalty Total	\$104												
		This violation Final Assessed Penalty (adjusted for limits) \$104														

Economic Benefit Worksheet

Respondent Kempner Water Supply Corporation
Case ID No. 37878
Reg. Ent. Reference No. RN101197549
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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

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]	\$150	8-Apr-2009	24-Apr-2009	0.00	\$0	\$150	\$150
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional oversight and maintenance that could have prevented or avoided the low pressure occurrence, calculated from the date of the investigation to the date of compliance.

Approx. Cost of Compliance \$150

TOTAL \$150

Screening Date 30-Jun-2009	Docket No. 2009-1005-PWS-E	PCW														
Respondent Kempner Water Supply Corporation		<i>Policy Revision 2 (September 2002)</i>														
Case ID No. 37378		<i>PCW Revision October 30, 2008</i>														
Reg. Ent. Reference No. RN101197549																
Media [Statute] Public Water Supply																
Enf. Coordinator Stephen Thompson																
Violation Number <input type="text" value="5"/>																
Rule Cite(s)	30 Tex. Admin. Code § 290.43(d)(3)															
Violation Description	Failed to equip all air compressor injection lines with filters or other devices to prevent compressor lubricants or other contaminants from entering the pressure tank. Specifically, at the time of the investigation, it was documented that the air compressor injection line for the pressure tank at the Stone Oaks Plant did not have an inline filter.															
	Base Penalty	<input type="text" value="\$1,000"/>														
>> Environmental, Property and Human Health Matrix																
OR	Harm															
	Release Major Moderate Minor															
	Actual	<input type="text"/>														
	Potential	<input type="text" value="x"/>														
	Percent	<input type="text" value="25%"/>														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/>	Percent <input type="text" value="0%"/>														
Matrix Notes	Failure to equip the air compressor injection line with an inline filter may allow significant amounts of contaminants to enter the water supply which would not exceed levels protective of human health.															
	Adjustment	<input type="text" value="\$750"/>														
		<input type="text" value="\$250"/>														
Violation Events																
	Number of Violation Events <input type="text" value="1"/>	Number of violation days <input type="text" value="8"/>														
<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text" value="x"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text" value="x"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$250"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text" value="x"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
	One quarterly event is recommended, calculated from the date of the investigation, April 8, 2009, to the date of compliance, April 16, 2009.															
Good Faith Efforts to Comply																
	<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$62"/>														
	Before NOV NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>															
Ordinary	<input type="text" value="x"/>															
N/A	(mark with x)															
Notes	The Respondent returned to compliance on April 16, 2009.															
	Violation Subtotal	<input type="text" value="\$188"/>														
Economic Benefit (EB) for this violation																
	Estimated EB Amount <input type="text" value="\$0"/>	Statutory Limit-Test														
		Violation Final Penalty Total <input type="text" value="\$261"/>														
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$261"/>															

Economic Benefit Worksheet

Respondent Kempner Water Supply Corporation
Case ID No. 37878
Reg. Ent. Reference No. RN101197549
Media Public Water Supply
Violation No. 5

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	\$100	8-Apr-2009	16-Apr-2009	0.02	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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 to install an inline filter on the air compressor line, calculated from the date of the investigation to the date of compliance.

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

Screening Date 30-Jun-2009	Docket No. 2009-1005-PWS-E	PCW	
Respondent Kempner Water Supply Corporation	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37878	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101197549			
Media [Statute] Public Water Supply			
Enf. Coordinator Stephen Thompson			
Violation Number	6		
Rule Cite(s)	30 Tex. Admin. Code § 290.42(e)(3)(G)		
Violation Description	Failed to obtain approval under the exemption guidelines of 30 Tex. Admin. Code § 290.39(l) to use a primary disinfectant other than chlorine. Specifically, at the time of the investigation, it was documented that the water that the Respondent purchases from Central Texas Water Supply Corporation is treated with chloramines as the primary disinfectant but the Respondent has not obtained an exception for the use of chloramines.		
Base Penalty	\$1,000		
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual		Percent <input type="text" value="0%"/>
	Potential		
>> Programmatic Matrix			
	Falsification	Major Moderate Minor	
		x	Percent <input type="text" value="25%"/>
Matrix Notes	100% of the rule requirement was not met.		
Adjustment	\$750		\$250
Violation Events			
	Number of Violation Events <input type="text" value="1"/>	<input type="text" value="58"/>	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty <input type="text" value="\$250"/>
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
single event	x		
	One single event is recommended.		
Good Faith Efforts to Comply			\$25
	10.0% Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary		x	
N/A		(mark with x)	
Notes	The Respondent returned to compliance on June 5, 2009.		
Violation Subtotal			\$225
Economic Benefit (EB) for this violation			Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total	<input type="text" value="\$298"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$298"/>

Economic Benefit Worksheet

Respondent Kempner Water Supply Corporation
Case ID No. 37878
Reg. Ent. Reference No. RN101197549
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	8-Apr-2009	5-Jun-2009	0.18	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the estimated amount to submit an exception request to the TCEQ to gain approval for the use of chloramines, calculated from the date of the investigation to the 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 TOTAL

\$100		\$1
-------	--	-----

Screening Date: 30-Jun-2009	Docket No.: 2009-1005-PWS-E	PCW														
Respondent: Kempner Water Supply Corporation		<small>Policy Revision 2 (September 2002)</small>														
Case ID No.: 37878		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No.: RN101197549																
Media [Statute]: Public Water Supply																
Enf. Coordinator: Stephen Thompson																
Violation Number: <input type="text" value="7"/>																
Rule Cite(s):	30 Tex. Admin. Code § 290.45(b)(1)(D)(iii) and Tex. Health & Safety Code § 341.0315(c)															
Violation Description:	Failed to provide two or more pumps that have a total capacity of 2.0 gallons per minute (gpm) per connection at each pressure plane. Specifically, at the time of the investigation, it was documented that the Hewgley pump station, which serves 24 connections in pressure plane 5, is required to provide 48 gpm, but was only providing 25 gpm, which is a 48% deficiency.															
	Base Penalty:	<input type="text" value="\$1,000"/>														
>> Environmental, Property and Human Health Matrix																
OR	Harm															
	Release Major Moderate Minor															
Actual	<input type="text"/>	<input type="text"/>														
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>														
	Percent	<input type="text" value="25%"/>														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/>	<input type="text"/>														
	<input type="text"/>	<input type="text"/>														
	<input type="text"/>	<input type="text"/>														
Matrix Notes	Failure to provide adequate pump capacity could result in water outages and expose customers of the water supply to a significant amount of contaminants which would not exceed levels protective of human health.															
	Adjustment:	<input type="text" value="\$750"/>														
		<input type="text" value="\$250"/>														
Violation Events																
	<input type="text" value="1"/>	<input type="text" value="83"/> Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="text" value="x"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text" value="x"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty: <input type="text" value="\$250"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input checked="" type="text" value="x"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
	One quarterly event is recommended, calculated from the date of the investigation, April 8, 2009, to the date of screening, June 30, 2009.															
Good Faith Efforts to Comply																
	0.0% Reduction	<input type="text" value="\$0"/>														
	Before NOV NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input type="text"/>														
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>														
Notes	The Respondent does not meet the good faith criteria for this violation.															
	Violation Subtotal:	<input type="text" value="\$250"/>														
Economic Benefit (EB) for this violation																
	Statutory Limit Test															
Estimated EB Amount:	<input type="text" value="\$8,310"/>	Violation Final Penalty Total: <input type="text" value="\$323"/>														
	This violation Final Assessed Penalty (adjusted for limits):	<input type="text" value="\$323"/>														

Economic Benefit Worksheet

Respondent: Kempner Water Supply Corporation
Case ID No.: 37878
Reg. Ent. Reference No.: RN101197549
Media: Public Water Supply
Violation No.: 7

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	\$121,038	8-Apr-2009	1-Apr-2010	0.98	\$396	\$7,914	\$8,310
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 amount to make the necessary upgrades to the Hewgley pump station to ensure that adequate pump capacity is provided, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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	\$121,038	TOTAL	\$8,310
----------------------------	-----------	-------	---------

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600642912 Kempner Water Supply Corporation	Classification:	Rating:
Regulated Entity:	RN101197549 KEMPNER WSC	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1410028
	WATER LICENSING	LICENSE	1410028
Location:	11896 HWY 190, KEMPNER, LAMPASAS COUNTY, TX		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	June 09, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 09, 2004 to June 09, 2009		

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
- 6.

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: 08/29/2008

ADMINORDER 2008-0128-PWS-E

Classification: Minor

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

Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies. Specifically, a map was made available, but it had not been updated.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(B)

Description: Failure to monitor the disinfectant residual at least once per day. Specifically, the facility was not measuring the chlorine residuals on the weekends.

Classification: Minor

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

Description: Failure to flush dead-end mains at monthly intervals.

Classification: Moderate

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

30 TAC Chapter 290, SubChapter F 290.122(a)(2)

Description: Failure to institute all necessary special precautions, including issuing a boil water notice to the customers, following a low disinfectant residual event on September 15, 2006.

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to maintain the disinfectant residual concentration throughout the distribution system at a minimum of 0.2 mg/L free chlorine or 0.50 mg/L total chlorine on September 15, 2006.

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	12/07/2007	(598357)
2	02/20/2008	(608644)
3	04/01/2008	(839860)
4	05/27/2008	(641381)
5	07/10/2008	(682960)
6	10/09/2008	(704811)
7	12/08/2008	(707685)
8	06/05/2009	(742114)

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

Date: 09/29/2006 (510300) CN600642912
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.118(a)
30 TAC Chapter 290, SubChapter F 290.118(b)
Description: Failure to meet the secondary constituent maximum contamination level for manganese.

Date: 02/21/2008 (608644) CN600642912
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to provide water system records that needed to be reviewed at the time of the investigation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence in order to protect the ground storage tanks and pressure maintenance facilities at the Donnell, Hewgley, and Northeast Pump Stations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the system facilities to insure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide a properly positioned overflow on the ground storage tank at the Georgetown Pump Station.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
Description: Failure to properly maintain the exterior coating on the ground storage tank at the Georgetown Pump Station.

Date: 02/22/2008 (608644) CN600642912
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iv)
30 TAC Chapter 290, SubChapter D 290.45(f)(7)
Description: Failure to provide adequate elevated storage or pressure tank capacity.

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 KEMPNER WATER
SUPPLY CORPORATION
RN101197549**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1005-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 Kempner 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 11896 Highway 190, in Kempner, Lampasas County, Texas (the "Facility") that has approximately 5,070 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 June 9, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Seven Hundred Sixty-Two Dollars (\$1,762) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Hundred Fifty-Two Dollars (\$352) 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. One Thousand Four Hundred Ten Dollars (\$1,410) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On April 16, 2009, the Respondent submitted documentation demonstrating that:
 - i. Current tank inspection reports were being maintained at the Facility;
 - ii. All air release devices had been properly screened; and
 - iii. An inline filter had been installed on the air compressor line at the Stone Oaks Plant.
 - b. On April 17, 2009, the Respondent submitted documentation demonstrating that the fences at the Ivy Mountain and Northeast plants had been repaired.
 - c. On April 24, 2009, the Respondent submitted documentation demonstrating that the water system was consistently maintaining adequate pressure throughout the system.
 - d. On June 5, 2009, the Respondent's exception request to use chloramine as a disinfectant was granted by the TCEQ.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to make the Facility's operating records accessible for review during an inspection, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(D)(ii), as documented during an investigation conducted on April 8, 2009.

2. Failed to install air release devices in the distribution system in such a manner as to preclude the possibility of submergence or possible entrance of contaminants, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(1), as documented during an investigation conducted on April 8, 2009.
3. Failed to provide a properly constructed intruder-resistant fence around all storage tanks and pressure maintenance facilities, in violation of 30 TEX. ADMIN. CODE § 290.43(e), as documented during an investigation conducted on April 8, 2009.
4. Failed to provide a minimum pressure of 35 pounds per square inch throughout the distribution system under normal operating conditions, in violation of 30 TEX. ADMIN. CODE § 290.46(r) as documented during an investigation conducted on April 8, 2009.
5. Failed to equip all air compressor injection lines with filters or other devices to prevent compressor lubricants or other contaminants from entering the pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(3), as documented during an investigation conducted on April 8, 2009.
6. Failed to obtain approval under the exemption guidelines of 30 TEX. ADMIN. CODE § 290.39(l) to use a primary disinfectant other than chlorine, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(G), as documented during an investigation conducted on April 8, 2009.
7. Failed to provide two or more pumps that have a total capacity of 2.0 gallons per minute (gpm) per connection at each pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on April 8, 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kempner Water Supply Corporation, Docket No. 2009-1005-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 5 above, One Thousand Four Hundred Ten Dollars (\$1,410) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 120 days after the effective date of this Agreed Order, provide two or more pumps that have a total capacity of 2.0 gpm per connection at the Hewgley pump station, in accordance with 30 TEX. ADMIN. CODE § 290.45.
 - b. Within 135 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. 3.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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. 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.
5. 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.

6. 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zolner
For the Executive Director

9/18/09
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.

Robert H. McDonald
Signature

Aug 2, 2009
Date

Robert H McDonald
Name (Printed or typed)
Authorized Representative of
Kempner Water Supply Corporation

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2009-1005-PWS-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Kempner Water Supply Corporation
Payable Penalty Amount:	One Thousand Four Hundred Ten Dollars (\$1,410)
SEP Amount:	One Thousand Four Hundred Ten Dollars (\$1,410)
Type of SEP:	Pre-approved
Third-Party Recipient:	Lower Colorado River Authority's Household Hazardous Waste and Reusable Materials Collection
Location of SEP:	Lampasas County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Lower Colorado River Authority ("LCRA") Household Hazardous Waste and Reusable Materials Collection. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Lower Colorado River Authority and the Texas Commission on Environmental Quality*. SEP monies will be used to sponsor household hazardous waste collection events, battery collection events, used oil collection events, paint collection events, and tire collection events in conjunction with local city and county governments through the LCRA Statutory District. These collection events provide citizens with a safe and convenient opportunity to properly dispose of household hazardous wastes such as: paint, tires, pesticides, motor oil, oil filters, antifreeze, batteries, and household cleaners. Citizens will be encouraged to reuse unused portions of properly labeled and handled chemical products (i.e. fertilizers, paints, and some pesticides/herbicides) through the reusable materials exchange. SEP monies will be used by LCRA to supplement scheduled events, and to add additional collection events. The LCRA has not previously budgeted for these supplemental, additional, or special collection events and will not budget for them.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a safe and convenient means for proper disposal of household hazardous waste. The program helps protect the environment, particularly the Edwards Aquifer and groundwater sources. It also discourages illegal dumping of hazardous materials by providing a convenient and free source for waste disposal.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lower Colorado River Authority
Attn: Jack Ranney
PO Box 220
Austin, Texas 78767-0220

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

Kempner Water Supply Corporation
Agreed Order – Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

