

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0238-PWS-E **TCEQ ID:** RN101259885 **CASE NO.:** 37177

RESPONDENT NAME: Pure Utilities, L.C.

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: Spring Creek Pure Utilities, 1800 Highway 59 Loop North, Livingston, Polk County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 June 29, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Stonewall Jackson, Registered Agent/Member, Pure Utilities, L.C., 3595 Farm-to-Market Road 3277, Livingston, Texas 77351 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: December 16, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 13, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to operate the disinfection equipment to maintain the disinfectant residual in the water of at least 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE § 290.46(d)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failure to provide two or more pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to provide a total storage capacity of 200 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>4) Failure to submit well completion data prior to placing Well No. 2 into service [30 TEX. ADMIN. CODE § 290.41(c)(3)(A)].</p>	<p>Total Assessed: \$1,996</p> <p>Total Deferred: \$399 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,597</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 checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on December 16, 2008, the Respondent maintained the disinfectant residual in the water of at least 0.2 mg/L free chlorine.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 360 days after the effective date of this Agreed Order:</p> <p>i) Provide two or more pumps having a total capacity of 2.0 gpm per connection;</p> <p>ii) Provide a total storage capacity of 200 gallons per connection; and</p> <p>iii) Submit for review and approval well completion data for Well No. 2.</p> <p>b) Within 375 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 1870149



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	17-Feb-2009			
	PCW	19-Feb-2009	Screening	19-Feb-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Pure Utilities, L.C.
Reg. Ent. Ref. No.	RN101259885
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37177	No. of Violations	4
Docket No.	2009-0238-PWS-E	Order Type	1660
Media Program(s)	public water supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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	\$1,700
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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.

Compliance History	13.0% Enhancement	Subtotals 2, 3, & 7	\$221
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Notes: The penalty enhancement is due to one prior Notice of Violation ("NOV") containing a violation that is the same as or similar to the violations in the current enforcement action and four dissimilar prior NOV's.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$25
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$493
 Approx. Cost of Compliance \$6,180
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,896
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OTHER FACTORS AS JUSTICE MAY REQUIRE	5.3%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$1,996
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,996
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DEFERRAL	20.0% Reduction	Adjustment	-\$399
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,597
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Screening Date 19-Feb-2009

Docket No. 2009-0238-PWS-E

PCW

Respondent Pure Utilities, L.C.

Policy Revision 2 (September 2002)

Case ID No. 37177

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101259885

Media [Statute] public water supply

Enf. Coordinator Epifanio Villarreal

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	4	8%
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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 13%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty enhancement is due to one prior Notice of Violation ("NOV") containing a violation that is the same as or similar to the violations in the current enforcement action and four dissimilar prior NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 13%

Screening Date 19-Feb-2009	Docket No. 2009-0238-PWS-E	PCW	
Respondent Pure Utilities, L.C.		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37177		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101259885			
Media [Statute] public water supply			
Enf. Coordinator Epifanio Villarreal			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 290.46(d)(2)(A) and Tex. Health & Safety Code § 341.0315(c)		
Violation Description	Failed to operate the disinfection equipment to maintain the disinfectant residual in the water of at least 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times. Specifically, at the time of the investigation, a field test conducted at 301 Spring Creek Loop revealed a free chlorine residual of 0.09 mg/L. An additional field test conducted approximately one-half mile away from 301 Spring Creek Loop revealed a free chlorine residual of 0.05 mg/L.		
	Base Penalty	<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>
Matrix Notes	If the water supply does not maintain proper levels of disinfection, customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.		
	Adjustment	<input type="text" value="\$900"/>	
		Subtotal	<input type="text" value="\$100"/>
Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days
		<input type="text" value="1"/>	<input type="text"/>
<i>mark only one with an x</i>	daily	<input type="text"/>	
	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"/>	
		Violation Base Penalty	<input type="text" value="\$100"/>
One single event is recommended.			
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$25"/>
		Before NOV NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	
	Ordinary	<input checked="" type="checkbox"/>	
	N/A	(mark with x)	
Notes	The Respondent achieved compliance on December 16, 2008.		
	Violation Subtotal	<input type="text" value="\$75"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$100"/>	Violation Final Penalty Total
			<input type="text" value="\$93"/>
	This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$93"/>

Economic Benefit Worksheet

Respondent Pure Utilities, L.C.
Case ID No. 37177
Reg. Ent. Reference No. RN101259885
Media public water supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	16-Dec-2008	16-Dec-2008	0.00	\$0	\$100	\$100

Notes for AVOIDED costs

The avoided cost includes the amount for additional maintenance, oversight, and an increase in chlorine dosage that could have avoided or prevented the low disinfectant residual levels, calculated for the dates when the violations occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$100

Screening Date 19-Feb-2009	Docket No. 2009-0238-PWS-E	PCW														
Respondent Pure Utilities, L.C.		<small>Policy Revision 2 (September 2002)</small>														
Case ID No. 37177		<small>PCW Revision October 30, 2008</small>														
Reg. Ent. Reference No. RN101259885																
Media [Statute] public water supply																
Enf. Coordinator Epifanio Villarreal																
Violation Number <input type="text" value="2"/>																
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health & Safety Code § 341.0315(c)"/>															
Violation Description	<input 100%="" 104="" 52="" a="" and="" any="" at="" capacity="" connection.="" connections="" deficiency."="" did="" documented="" facility="" gpm")="" gpm.="" has="" have="" installed,="" investigation,="" is="" it="" minimum="" must="" not="" of="" per="" provide="" pump="" pumps="" service="" specifically,="" that="" the="" time="" total="" type="text" value="Failed to provide two or more pumps having a total capacity of 2.0 gallons per minute (" was="" which=""/>															
	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"/>	<input type="text" value="0%"/>														
Matrix Notes	<input type="text" value="Without total pump capacity, customers of the water system could experience water outages and backflow problems exposing customers to a significant amount of contaminants that 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="3"/>	<input type="text" value="65"/> Number of violation days														
<small>mark only one with an x</small>	<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" value="x"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></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" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$750"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text" value="x"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
	<input type="text" value="Three monthly events are recommended from the date of the investigation, December 16, 2008, to the date of screening, February 19, 2009."/>															
Good Faith Efforts to Comply																
	<input type="text" value="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 type="text" value="x"/>	<input type="text" value="(mark with x)"/>														
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>															
	Violation Subtotal	<input type="text" value="\$750"/>														
Economic Benefit (EB) for this violation																
Statutory Limit Test																
Estimated EB Amount	<input type="text" value="\$61"/>	Violation Final Penalty Total <input type="text" value="\$892"/>														
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$892"/>														

Economic Benefit Worksheet

Respondent Pure Utilities, L.C.
Case ID No. 37177
Reg. Ent. Reference No. RN101259885
Media public water supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$720	16-Dec-2008	1-Mar-2010	1.21	\$3	\$58	\$61
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to install two or more pumps having a total pump capacity of 2.0 gpm per connection, 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

\$720

TOTAL

\$61

Screening Date 19-Feb-2009	Docket No. 2009-0238-PWS-E	PCW
Respondent Pure Utilities, L.C.		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 37177		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101259885		
Media [Statute] public water supply		
Enf. Coordinator Epifanio Villarreal		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.45(b)(1)(C)(ii) and Tex. Health & Safety Code § 341.0315(c)"/>	
Violation Description	<input type="text" value="Failed to provide a total storage capacity of 200 gallons per connection. Specifically, at the time of the investigation, the investigator documented that the Facility did not have a storage tank. Based on 52 service connections, the system is required to provide a total storage capacity of 10,400 gallons, which is a 100% 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"/>
	Potential	<input type="text" value="x"/>
	Percent	<input type="text" value="25%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/>	<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Without any storage capacity, customers of the water system could experience water outages and the Facility's ability to provide a safe and adequate water supply exposing customers to a significant amount of contaminants that 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="3"/>	<input type="text" value="65"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
	Violation Base Penalty	<input type="text" value="\$750"/>
	<input type="text" value="Three monthly events are recommended from the date of the investigation, December 16, 2008, to the date of screening, February 19, 2009."/>	
Good Faith Efforts to Comply		
	<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
	Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
	Violation Subtotal	<input type="text" value="\$750"/>
Economic Benefit (EB) for this violation		
	Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$30"/>	Violation Final Penalty Total <input type="text" value="\$892"/>
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$892"/>	

Economic Benefit Worksheet

Respondent: Pure Utilities, L.C.
Case ID No.: 37177
Reg. Ent. Reference No.: RN101259885
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)				0.00	\$0	\$0	\$0
Engineering/construction	\$360	16-Dec-2008	1-Mar-2010	1.21	\$1	\$29	\$30
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the amount to install a storage tank to meet a total storage capacity of 200 gallons per connection, 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	\$360	TOTAL	\$30
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Screening Date 19-Feb-2009	Docket No. 2009-0238-PWS-E	PCW			
Respondent Pure Utilities, L.C.	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 37177	<i>PCW Revision October 30, 2008</i>				
Reg. Ent. Reference No. RN101259885					
Media [Statute] public water supply					
Enf. Coordinator Epifanio Villarreal					
Violation Number <input type="text" value="4"/>					
Rule Cite(s)	30 Tex. Admin. Code § 290.41(c)(3)(A)				
Violation Description	Failed to submit well completion data prior to placing Well No. 2 into service.				
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"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	X	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				<input type="text" value="\$900"/>	
				<input type="text" value="\$100"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="65"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>			
	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"/>			
				Violation Base Penalty <input type="text" value="\$100"/>	
One single event is recommended.					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction		
		Before NOV	NOV to EDFRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	X	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal				<input type="text" value="\$100"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$301"/>	Violation Final Penalty Total		
			<input type="text" value="\$119"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$119"/>		

Economic Benefit Worksheet

Respondent Pure Utilities, L.C.
Case ID No. 37177
Reg. Ent. Reference No. RN101259885
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$5,000	16-Dec-2008	1-Mar-2010	1.21	\$301	n/a	\$301
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs The delayed cost includes the amount to submit well completion data for Well No. 2, 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	\$5,000	TOTAL	\$301
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600635171 Pure Utilities, L.C.	Classification: AVERAGE	Rating: 0.86
Regulated Entity:	RN101259885 SPRING CREEK PURE UTILITIES	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1870149
Location:	1800 HIGHWAY 59 LOOP N, LIVINGSTON, POLK COUNTY, TX,		
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	February 23, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 23, 2004 to February 23, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Epi Villarreal	Phone:	361-825-3425

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	Yes
3. If Yes, who is the current owner?	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	01/25/2006	(450482)
2	07/19/2006	(564804)
3	11/03/2006	(565287)
4	03/01/2007	(565292)
5	05/21/2007	(565295)
6	07/11/2007	(566821)
7	02/13/2009	(722879)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/19/2006	(564804)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) 5A THSC Chapter 341, SubChapter A 341.0315(c)		
Description:	Violated the maximum contaminant level for arsenic during the second quarter of 2006.		
Date:	11/03/2006	(565287)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) 5A THSC Chapter 341, SubChapter A 341.0315(c)		
Description:	Violated the maximum contaminant level for arsenic during the third quarter of 2006.		

Date: 03/01/2007 (565292)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the fourth quarter of 2006.

Date: 05/21/2007 (565295)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the first quarter of 2007.

Date: 03/03/2008 (617836)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
Description: Failure to maintain an adequate chlorine residual.

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
PURE UTILITIES, L.C.
RN101259885

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0238-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 Pure Utilities, L.C. ("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 1800 Highway 59 Loop North in Livingston, Polk County, Texas (the "Facility") that has approximately 52 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 February 18, 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 Nine Hundred Ninety-Six Dollars (\$1,996) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Five Hundred Ninety-Seven Dollars (\$1,597) of the administrative penalty and Three Hundred Ninety-Nine Dollars (\$399) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this

Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that on December 16, 2008, the Respondent maintained the disinfectant residual in the water of at least 0.2 milligrams per liter ("mg/L") free chlorine.
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 operate the disinfection equipment to maintain the disinfectant residual in the water of at least 0.2 mg/L free chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § 290.46(d)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on December 16, 2008.
2. Failed to provide two or more pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on December 16, 2008.
3. Failed to provide a total storage capacity of 200 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on December 16, 2008.
4. Failed to submit well completion data prior to placing Well No. 2 into service, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A), as documented during an investigation conducted on December 16, 2008.

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: Pure Utilities, L.C., Docket No. 2009-0238-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 360 days after the effective date of this Agreed Order:
 - i. Provide two or more pumps having a total capacity of 2.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45;
 - ii. Provide a total storage capacity of 200 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
 - iii. Submit for review and approval well completion data for Well No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.41.

The well completion data shall be submitted to:

Water Supply Division
Utility Creation & Plan Review Team, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 375 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 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller

For the Executive Director

6/5/2009

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.

Stonewall Jackson

Signature

4/20/09

Date

Stonewall Jackson

Name (Printed or typed)
Authorized Representative of
Pure Utilities, L.C.

Member

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.

