

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0934-WOC-E **TCEQ ID:** RN103397543 **CASE NO.:** 37807
RESPONDENT NAME: Kennen W. Jackson

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 type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" 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: 2785 A Highway 84 West, Mexia, Limestone County</p> <p>TYPE OF OPERATION: Public water system</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 September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villareal, 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. Kennen W. Jackson, Operator, 2785 A Highway 84 West, Mexia, Texas 76667 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 15, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 12, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to obtain a valid public water system operator license prior to performing process control duties in the production, treatment, and distribution of public drinking water [30 TEX. ADMIN. CODE §§ 30.5(a) and 30.381(b), TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034(b)].</p>	<p>Total Assessed: \$750</p> <p>Total Deferred: \$150 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$210 (remaining \$390 due in 1 monthly payment of \$390 each)</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease operating the Facility until such time that an effective valid Class "D" public water system operator license has been obtained; and</p> <p>b. Within 15 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): WQ0000809



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	15-Jun-2009	Screening	17-Jun-2009	EPA Due	
	PCW	17-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kennen W. Jackson
Reg. Ent. Ref. No.	RN103397543
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37807	No. of Violations	1
Docket No.	2009-0934-WOC-E	Order Type	1660
Media Program(s)	All Occupational Licenses	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villaral
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 17-Jun-2009

Docket No. 2009-0934-WOC-E

PCW

Respondent Kennen W. Jackson

Policy Revision 2 (September 2002)

Case ID No. 37807

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103397543

Media [Statute] All Occupational Licenses

Enf. Coordinator Epifanio Villarral

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)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 0%

>> 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

No adjustment is recommended due to no compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 17-Jun-2009	Docket No. 2009-0934-WOC-E	PCW	
Respondent Kennen W. Jackson	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37807	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN103397543			
Media [Statute] All Occupational Licenses			
Enf. Coordinator Epifanio Villarral			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code §§ 30.5(a) and 30.381(b), Tex. Water Code § 37.003 and Tex. Health & Safety Code § 341.034(b)		
Violation Description	Failed to obtain a valid public water system operator license prior to performing process control duties in the production, treatment, and distribution of public drinking water. Specifically, at the time of the investigation, it was documented that the Respondent was operating the 84 West Water Supply Corporation with an expired Class "D" water operator's license.		
Base Penalty		<input type="text" value="\$2,500"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
			Percent
			<input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.		
Adjustment		<input type="text" value="\$2,250"/>	
		<input type="text" value="\$250"/>	
Violation Events			
Number of Violation Events		<input type="text" value="3"/>	Number of violation days
		<input type="text" value="63"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	
	monthly	<input checked="" 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="\$750"/>			
Three monthly events are recommended from the date of the investigation, April 15, 2009, to the date of screening, June 17, 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 checked="" type="text" value="x"/>	(mark with x)	
Notes	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="\$15"/>	Violation Final Penalty Total
		<input type="text" value="\$750"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$750"/>	

Economic Benefit Worksheet

Respondent Kennen W. Jackson
Case ID No. 37807
Reg. Ent. Reference No. RN103397543
Media All Occupational Licenses
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
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)	\$111	17-Jun-2007	1-Feb-2010	2.63	\$15	n/a	\$15

Notes for DELAYED costs

The delayed cost includes the amount to obtain a valid public water system operator license, calculated from the date the Respondent's license expired 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

\$111

TOTAL

\$15

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
KENNEN W. JACKSON
RN103397543**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0934-WOC-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 Kennen W. Jackson ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 37. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent operates a public water system at 2785 A Highway 84 West in Mexia, Limestone County, Texas (the "Facility") that has approximately 60 service connections and serves at least 25 people per day for a least 60 days per year.
2. The TCEQ has general authority to regulate the licensing of water treatment operators, pursuant to TEX. WATER CODE ch. 37.
3. 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.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 17, 2009.
5. 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.
6. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Ten Dollars (\$210) of the administrative penalty and One Hundred Fifty

Dollars (\$150) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty. The remaining amount of Three Hundred Ninety Dollars (\$390) of the administrative penalty shall be payable in one monthly payment of Three Hundred Ninety Dollars (\$390). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order.

7. 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.
8. 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.
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 operator of the Facility, the Respondent is alleged to have failed to obtain a valid public water system operator license prior to performing process control duties in the production, treatment, and distribution of public drinking water, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 30.381(b), TEX. WATER CODE § 37.003 and TEX. HEALTH & SAFETY CODE § 341.034(b), as documented during an investigation conducted on April 15, 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 6 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: Kennen W. Jackson, Docket No. 2009-0934-WOC-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. Immediately upon the effective date of this Agreed Order, cease operating the Facility until such time that an effective valid Class "D" public water system operator license has been obtained, in accordance with 30 TEX. ADMIN. CODE §§ 30.381(b) and 30.5.
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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

[Signature]
For the Executive Director

8/19/2009
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.

Kennan W. Jackson
Signature

8/11/09
Date

KENNAN W. JACKSON
Name (Printed or typed)
Authorized Representative of
Kennan W. Jackson

Operator
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.

