

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-1497-MWD-E RN103948220 CASE NO. 38399**  
**RESPONDENT NAME: TEMPE WATER SUPPLY CORPORATION**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 1.5 miles west of U.S. Highway 190 on FM 2745, Livingston, Polk County

**TYPE OF OPERATION:** wastewater treatment facility

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired August 9, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Ms. Heather Brister, Water Enforcement Section, MC R-9, (254) 761-3034

**TCEQ Regional Contact:** Mr. Ronald Hebert, Beaumont Regional Office, MC R-10, (409) 898-3838

**Respondent:** Mr. Corry T. Jones, President, Tempe Water Supply Corporation, Route 1, Box 75, Moscow, Texas 75960

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 14, 2009</p> <p><b>Date of NOE Relating to this Case:</b> September 1, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed on March 29, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on March 31, 2010. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>MWD:</b> Failed to maintain authorization for the discharge of filter backwash water [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2)].</p>	<p><b>Total Assessed:</b> \$12,240</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$12,240</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that Respondent submitted a TPDES permit application on October 14, 2009, which was deemed administratively complete on December 16, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, until such time that authorization to operate is obtained or until 300 days after the effective date of the order, whichever is earlier, comply with the permit limits and terms and conditions in expired TPDES Permit No. 14474001;</li> <li>2. Within 300 days, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Sep-2009			
	<b>PCW</b>	2-Mar-2010	<b>Screening</b>	15-Sep-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Tempe Water Supply Corporation				
<b>Reg. Ent. Ref. No.</b>	RN103948220				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	38399	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2009-1497-MWD-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Brister		
		<b>EC's Team</b>	Enforcement Team 1		
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$32,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	2.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$640
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<b>Notes</b>	Enhancement due to one Notice of Violation with unrelated violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,532	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$8,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$32,640
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	-62.5%	<b>Adjustment</b>	-\$20,400
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Other factors reduction is recommended to make the penalty for the violation commensurate with the situation.
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<b>Final Penalty Amount</b>	\$12,240
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,240
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$12,240
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Screening Date 15-Sep-2009

Docket No. 2009-1497-MWD-E

PCW

Respondent Tempe Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38399

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103948220

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

### 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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement due to one Notice of Violation with unrelated violations.

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

<b>Screening Date</b>	15-Sep-2009	<b>Docket No.</b>	2009-1497-MWD-E	<b>PCW</b>
<b>Respondent</b>	Tempe Water Supply Corporation		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	38399	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN103948220			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Heather Brister			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code §§ 305.65 and 305.125(2)			
<b>Violation Description</b>	Failed to maintain authorization for the discharge of filter backwash water, as documented during an investigation on July 14, 2009. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14474001 by February 1, 2007, and is continuing to discharge wastewater from the Facility without authorization.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
Potential				<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
<b>&gt;&gt;Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
		x		
				<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">10%</span>
Matrix Notes	100% of the permit requirement was not met.			
<b>Adjustment</b>				\$9,000
				\$1,000
<b>Violation Events</b>				
	Number of Violation Events	32	957	Number of violation days
<i>mark only one with an x</i>	daily			
	weekly			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
<b>Violation Base Penalty</b>				\$32,000
Thirty-two monthly events are recommended from the date the TPDES permit expired (February 1, 2007) to the screening date (September 15, 2009).				
<b>Good Faith Efforts to Comply</b>				
	<b>0.0%</b>	Reduction		\$0
		Before NOV	NOV to EDPRP/Settlement	
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
Notes	The Respondents do not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$32,000
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
<b>Estimated EB Amount</b>	\$1,532	<b>Violation Final Penalty Total</b>	\$12,240	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$12,240

## Economic Benefit Worksheet

**Respondent** Tempe Water Supply Corporation  
**Case ID No.** 38399  
**Reg. Ent. Reference No.** RN103948220  
**Media** Water Quality  
**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	\$8,000	1-Feb-2007	30-Nov-2010	3.83	\$1,532	n/a	\$1,532
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater. Date required is the date the previous permit expired. Final date is the expected 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

\$8,000

**TOTAL**

\$1,532

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600636484 Tempe Water Supply Corporation Classification: AVERAGE Rating: 0.33  
Regulated Entity: RN103948220 TEMPE WATER SUPPLY WELL 3 Classification: AVERAGE Site Rating: 0.33  
ID Number(s): WASTEWATER PERMIT WQ0014474001  
WASTEWATER PERMIT TX0126144

Location: APPRX 1.5 M W OF US HWY 190 ON FM 2457 IN POLK CO, TX

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: September 09, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 09, 2004 to September 09, 2009

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

Name: Lauren Smitherman Phone: 512-239-5223

## 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. Rating Date: 9/1/2009 Repeat Violator: NO

## 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 09/13/2004 (368288)
    - 2 10/15/2004 (368289)
    - 3 11/05/2004 (390868)
    - 4 12/06/2004 (390869)
    - 5 01/20/2005 (390870)
    - 6 02/10/2005 (390866)
    - 7 03/07/2005 (390867)
    - 8 05/19/2005 (428308)
    - 9 05/19/2005 (428309)
    - 10 07/18/2005 (396316)
    - 11 10/09/2007 (451513)
    - 12 09/01/2009 (764049)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: **07/18/2005** (396316) CN600636484

Self Report? NO Classification: Minor

Citation: EL&MR 4 PERMIT

Description: Failure to monitor flow and pH at the location specified in the permit.

Self Report? NO Classification: Minor

Citation: M&RR 2 PERMIT

Description: Failure to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification: Minor

Citation: EL&MR 1 PERMIT

Description: Failure by the permittee to collect composite samples when required by the permit.

Self Report? NO Classification: Minor

Citation: M&RR 3c PERMIT

Description: Failure to maintain complete records of monitoring activities.
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
TEMPE WATER SUPPLY  
CORPORATION;  
RN103948220**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2009-1497-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Tempe Water Supply Corporation (“Respondent”).

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

**FINDINGS OF FACT**

1. Respondent owns and operates a wastewater treatment facility located approximately 1.5 miles west of U.S. Highway 190 on Farm-to-Market Road 2457, near Livingston, Polk County, Texas (the “Facility”).
2. Respondent has discharged waste from the Facility into or adjacent to any water in the state or committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an investigation conducted on July 14, 2009, a TCEQ Beaumont Regional Office investigator documented that Respondent failed to maintain authorization for the discharge of filter backwash water. Specifically, Respondent did not renew Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. 14474001 by February 1, 2007, and is continuing to discharge wastewater from the Facility without authorization.
4. The Executive Director recognizes that Respondent submitted a TPDES permit application on October 14, 2009, which was deemed administratively complete by the Executive Director on December 16, 2009.

5. Respondent received notice of the violation on or about September 6, 2009.
6. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tempe Water Supply Corporation and Walter Knebel dba Tempe Water Supply Corporation”<sup>1</sup> (the “EDPRP”) in the TCEQ Chief Clerk’s office on March 29, 2010.
7. By letter dated March 29, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt “green card,” Respondent received notice of the EDPRP on March 31, 2010, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Respondent failed to maintain authorization for the discharge of filter backwash water, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2).
3. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code within the Commission’s jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

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<sup>1</sup> Subsequent to the date the EDPRP was filed, Walter Knebel was severed from this action.

6. An administrative penalty in the amount of twelve thousand two hundred forty dollars (\$12,240.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of twelve thousand two hundred forty dollars (\$12,240.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Tempe Water Supply Corporation; Docket No. 2009-1497-MWD-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. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, until such time that authorization to operate is obtained or until 300 days after the effective date of this Order, whichever is earlier, Respondent shall comply with the permit limits and terms and conditions in expired TPDES Permit No. 14474001.
  - b. Within 300 days after the effective date of this Order, Respondent shall submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance 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  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEPHANIE J. FRAZEE**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tempe Water Supply Corporation and Walter Knebel dba Tempe Water Supply Corporation” (the “EDPRP”) was filed with the Office of the Chief Clerk on March 29, 2010.

The EDPRP was mailed to Respondent at its last known address on March 29, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Respondent received notice of the EDPRP on March 31, 2010, as evidenced by the signature on the card.

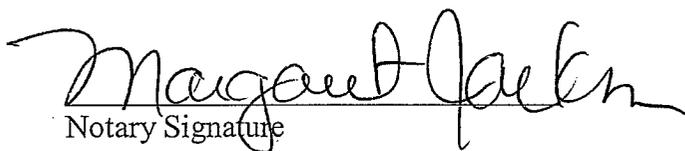
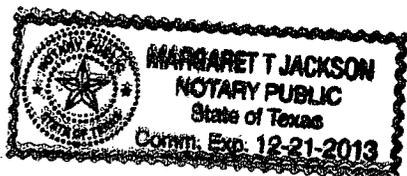
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”



Stephanie J. Frazee, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 12 day of July, A.D., 2010.



Notary Signature