

DOCKET NO.: 2010-1641-PWS-E TCEQ ID: RN105486518 CASE NO.: 40492

RESPONDENT NAME: Elizabeth Perez dba JD's Kwik Stop

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: JD's Kwik Stop, 16672 United States Highway 83 North, near Laredo, Webb 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 February 28, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Elizabeth Perez, Owner, JD's Kwik Stop, 16672 United States Highway 83 North, Laredo, Texas 78045 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 2, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 7, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failed to submit plans and specifications prepared under the direction of a licensed professional engineer for the Facility and receive written approval of the plans and specifications prior to beginning construction of a new public water system [30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(2)].</p> <p>2) Failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine residual throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failed to submit well completion data to the Commission for review and approval prior to placing the well into service [30 TEX. ADMIN. CODE § 290.41(c)(3)(A)].</p>	<p>Total Assessed: \$501</p> <p>Total Deferred: \$100 <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: \$401</p> <p>Compliance History Classification: Person/CN – High Site/RN – High</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 after the effective date of the Agreed Order, begin operating the disinfection equipment to maintain a free chlorine residual of 0.2 mg/L throughout the distribution system at all times;</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> <p>c. Within 180 days after the effective date of this Agreed Order, submit as built plans and specifications prepared under the direction of a licensed professional engineer for the Facility and submit well completion data. Respond completely and adequately, as determined by the Commission, to all requests for information concerning the plans and specifications for the Facility; and</p> <p>d. Within 195 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 c.</p>

Additional ID No(s): 2400035



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Sep-2010	Screening	17-Sep-2010	EPA Due	
	PCW	1-Oct-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Elizabeth Perez dba JD's Kwik Stop
Reg. Ent. Ref. No.	RN105486518
Facility/Site Region	16-Laredo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40492	No. of Violations	3
Docket No.	2010-1641-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		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	\$300
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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	-5.0% Enhancement	Subtotals 2, 3, & 7	-\$15
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Notes: Enhancement for one NOV with same/similar violations. Reduction for high performer classification.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$737
Approx. Cost of Compliance	\$4,700

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$285
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OTHER FACTORS AS JUSTICE MAY REQUIRE	75.8%	Adjustment	\$216
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs for Violation No. 2.

Final Penalty Amount	\$501
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$501
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DEFERRAL	20.0% Reduction	Adjustment	-\$100
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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	\$401
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Screening Date 17-Sep-2010

Docket No. 2010-1641-PWS-E

PCW

Respondent Elizabeth Pérez dba JD's Kwik Stop

Policy Revision 2 (September 2002)

Case ID No. 40492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105486518

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations. Reduction for high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -5%

Screening Date 17-Sep-2010

Docket No. 2010-1641-PWS-E

PCW

Respondent Elizabeth Perez dba JD's Kwik Stop

Policy Revision 2 (September 2002)

Case ID No. 40492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105486518

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(e)(1) and (h)(1) and Tex. Health & Safety Code § 341.035(2)

Violation Description Failed to submit plans and specifications prepared under the direction of a licensed professional engineer for the Facility and receive written approval of the plans and specifications prior to beginning construction of a new public water system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 15 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$348

Violation Final Penalty Total \$167

This violation Final Assessed Penalty (adjusted for limits) \$167

Economic Benefit Worksheet

Respondent Elizabeth Perez dba JD's Kwik Stop
Case ID No. 40492
Reg. Ent. Reference No. RN105486518
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$3,000	19-Jan-2010	15-Sep-2011	1.65	\$17	\$331	\$348
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to submit plans and specifications to the Commission, calculated from the date the investigation initially documenting the violation 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

\$3,000

TOTAL

\$348

Screening Date 17-Sep-2010

Docket No. 2010-1641-PWS-E

PCW

Respondent Elizabeth Perez dba JD's Kwik Stop

Policy Revision 2 (September 2002)

Case ID No. 40492

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN105486518

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(A) and 290.110(b)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine residual throughout the distribution system at all times. Specifically, a review of records revealed that a sample collected during an investigation conducted on January 19, 2010, documented a disinfectant residual of 0.02 mg/L.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to maintain a residual disinfectant concentration at a minimum of 0.2 mg/L free chlorine could result in the delivery of a significant amount of contaminated water to the public which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

15 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$216

Violation Final Penalty Total \$167

This violation Final Assessed Penalty (adjusted for limits) \$167

Economic Benefit Worksheet

Respondent Elizabeth Perez dba JD's Kwik Stop
Case ID No. 40492
Reg. Ent. Reference No. RN105486518
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

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$200	19-Jan-2010	17-Sep-2010	1.58	\$16	\$200	\$216

Notes for AVOIDED costs

The avoided costs include the amount necessary for additional maintenance and oversight to ensure the Facility has an adequate supply of chlorine. The date required is the date that the chlorine test was conducted. The final date is the screening date.

Approx. Cost of Compliance

\$200

TOTAL

\$216

Screening Date 17-Sep-2010

Docket No. 2010-1641-PWS-E

PCW

Respondent Elizabeth Perez dba JD's Kwik Stop

Policy Revision 2 (September 2002)

Case ID No. 40492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105486518

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(A)

Violation Description

Failed to submit well completion data to the Commission for review and approval prior to placing the well into service.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

15 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$174

Violation Final Penalty Total \$167

This violation Final Assessed Penalty (adjusted for limits) \$167

Economic Benefit Worksheet

Respondent Elizabeth Perez dba JD's Kwik Stop
Case ID No. 40492
Reg. Ent. Reference No. RN105486518
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	19-Jan-2010	15-Sep-2011	1.65	\$8	\$165	\$174
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to submit well completion data to the Commission, calculated from the date of the investigation initially documenting the violation 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

\$1,500

TOTAL

\$174

Compliance History

Customer/Respondent/Owner-Operator: CN603338609 PEREZ, ELIZABETH Classification: HIGH Rating: 0.00
Regulated Entity: RN105486518 JDS KWIK STOP Classification: HIGH Site Rating: 0.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2400035
PETROLEUM STORAGE TANK REGISTRATION 79415
REGISTRATION

Location: 16672 US HIGHWAY 83 N, LAREDO, TX, 78045

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: November 15, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 15, 2005 to November 15, 2010

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

Name: Amanda Henry Phone: 713-767-3672

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: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 03/31/2008(640819)
 - 2 02/19/2010 (792368)
 - 3 09/07/2010 (858175)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/19/2010 (792368)

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)

Description: Failure to submit engineering reports for a new public water supply system.

Self Report? NO

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

Classification: Moderate

Classification: Moderate

Description: Failure to maintain a chlorine residual of 0.20 mg/L throughout the distribution.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
Description: Failure to furnish the TCEQ with a copy of the well completion data before placing the public water system well into service.

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
ELIZABETH PEREZ DBA JD's
KWIK STOP
RN105486518**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1641-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 Elizabeth Perez dba JD's Kwik Stop ("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 16672 United States Highway 83 North near Laredo, Webb County, Texas (the "Facility") that has approximately 6 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 September 10, 2010.
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 Five Hundred One Dollars (\$501) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred One Dollars (\$401) of the administrative penalty and One Hundred Dollars (\$100) 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 has agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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.
9. 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.
10. 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 submit plans and specifications prepared under the direction of a licensed professional engineer for the Facility and receive written approval of the plans and specifications prior to beginning construction of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(2), as documented during a record review conducted on September 2, 2010.
2. Failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine residual throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE § § 290.46(d)(2)(A) and 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on September 2, 2010.
3. Failed to submit well completion data to the Commission for review and approval prior to placing the well into service, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A), as documented during a record review conducted on September 2, 2010.

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: Elizabeth Perez dba JD's Kwik Stop, Docket No. 2010-1641-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. Immediately after the effective date of the Agreed Order, begin operating the disinfection equipment to maintain a free chlorine residual of 0.2 mg/L throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 180 days after the effective date of this Agreed Order, submit as built plans and specifications prepared under the direction of a licensed professional engineer for the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.39 and submit well completion data, as required by 30 TEX. ADMIN. CODE § 290.41. Respond completely and adequately, as determined by the Commission, to all requests for information concerning the plans and specifications for the Facility. The plans, specifications, and reports shall be submitted to:

Plan and Groundwater Review Section, MC-159
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 195 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.c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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 Szellin

For the Executive Director

Date 1/24/2011

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.

Elizabeth Perez

Signature

Date 12-1-10

Elizabeth Perez

Name (Printed or typed)
Authorized Representative of
Elizabeth Perez dba JD's Kwik Stop

Owner

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.