

Executive Summary – Enforcement Matter – Case No. 40108
DRC BUSINESS INC. d/b/a Kountry Kwik
RN100927888
Docket No. 2010-1227-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location Where Violation Occurred:
29720 Huffman Cleveland Road, Huffman, Harris County

Type of Operation:
Gasoline service station and convenience store with a public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 29, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$3,927
Amount Deferred for Expedited Settlement:	N/A
Amount Deferred for Financial Inability to Pay:	N/A
Total Paid to General Revenue:	\$0
Total Due to General Revenue:	\$3,927
SEP Conditional Offset:	N/A

Compliance History Classifications:
Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: June 15, 2010
Date(s) of NOV(s): See Compliance History – Nine NOVs
Date(s) of NOE(s): June 30, 2010

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide notice to persons served by the Facility regarding the failure to conduct routine coliform monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect a set of four repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide notice to persons served by the Facility regarding the failure to collect repeat samples [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)].
3. Failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result and failed to provide notice to persons served by the Facility regarding the failure to conduct increased routine monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)].

Corrective Actions/Technical Requirements

Corrective Action Completed:
N/A

Technical Requirements:

1. Within 30 days:
 - a. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility; and
 - b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
2. Within 180 days, submit written certification to demonstrate compliance.

Litigation Information

Date(s) Petition(s) Filed: March 7, 2011
Date(s) Green Card(s) Signed: Unclaimed
Date Answer Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 40108
DRC BUSINESS INC. d/b/a Kountry wikk
RN100927888
Docket No. 2010-1227-PWS-E

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Contact Information

TCEQ Attorneys: Marshall Coover, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Michaelle Sherlock, Water Enforcement Section, (210) 403-4076

TCEQ Regional Contact: Stephen Smith, Houston Regional Office, MC R-12, (713) 767- 3581

Respondent: Randeep Singh, President, DRC Business Inc., 20907 White Oka Ridge Drive, Houston, Texas 77095; 29720 Huffman Cleveland Road, Huffman, TX 77336

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Jul-2010	Screening	28-Jul-2010	EPA Due	1-Jun-2010
	PCW	29-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	DRC BUSINESS INC. dba Kountry Kwik
Reg. Ent. Ref. No.	RN100927888
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40108	No. of Violations	3
Docket No.	2010-1227-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michaelle Sherlock
		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	\$2,250
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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	45.0% Enhancement Subtotals 2, 3, & 7	\$1,012

Notes: Enhancement for nine Notices of Violation ("NOVs") with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes:

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: \$667
 Approx. Cost of Compliance: \$720
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,262
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OTHER FACTORS AS JUSTICE MAY REQUIRE	20.4%	Adjustment	\$665
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the avoided cost of compliance.

Final Penalty Amount	\$3,927
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,927
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$3,927
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Screening Date 28-Jul-2010

Docket No. 2010-1227-PWS-E

PCW

Respondent DRC BUSINESS INC. dba Kountry Kwik

Policy Revision 2 (September 2002)

Case ID No. 40108

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100927888

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

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>)	9	45%
	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) 45%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for nine Notices of Violation ("NOVs") with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 28-Jul-2010 **Docket No.** 2010-1227-PWS-E **PCW**
Respondent DRC BUSINESS INC. dba Kountry Kwik *Policy Revision 2 (September 2002)*
Case ID No. 40108 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100927888
Media [Statute] Public Water Supply
Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis and failed to provide notice to persons served by the Facility regarding the failure to conduct routine coliform monitoring during the months of June 2009, July 2009, August 2009, November 2009, and April 2010.

Base Penalty \$1,000

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform routine coliform monitoring and failure to provide notice could result in employees and customers of the Facility being exposed to significant amounts of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 5 152 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

Five monthly events are recommended based on the number of months where sampling did not occur.

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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$2,182

This violation Final Assessed Penalty (adjusted for limits) \$2,182

Economic Benefit Worksheet

Respondent DRC BUSINESS INC. dba Kountry Kwik
Case ID No. 40108
Req. Ent. Reference No. RN100927888
Media Violation No. Public Water Supply
 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)	\$100	15-Jun-2010	1-Dec-2010	0.46	\$2	n/a	\$2

Notes for DELAYED costs The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date. The final date is 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]	\$125	30-Jun-2009	30-Apr-2010	1.75	\$11	\$125	\$136
Other (as needed)	\$25	1-Oct-2009	1-Aug-2010	1.75	\$2	\$25	\$27

Notes for AVOIDED costs The avoided costs include the estimated amount to conduct routine monthly sampling (\$25 per month) and the estimated amount to provide public notice to the Facility's employees and customers (\$5 per month), calculated for the months in which routine sampling and public notice did not occur.

Approx. Cost of Compliance \$250

TOTAL \$165

Screening Date 28-Jul-2010

Docket No. 2010-1227-PWS-E

PCW

Respondent DRC BUSINESS INC. dba Kountry Kwik

Policy Revision 2 (September 2002)

Case ID No. 40108

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100927888

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)

Violation Description

Failed to collect a set of four repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide notice to persons served by the Facility regarding the failure to collect repeat samples during the months of April 2009 and September 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform repeat coliform monitoring and failure to provide notice could result in employees and customers of the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

60 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended based on the number of months where repeat samples were not collected.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$224

Violation Final Penalty Total \$873

This violation Final Assessed Penalty (adjusted for limits) \$873

Economic Benefit Worksheet

Respondent DRC BUSINESS INC. dba Kountry Kwik
Case ID No. 40108
Req. Ent. Reference No. RN100927888
Media Violation No. Public Water Supply
 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				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]	\$200	30-Apr-2009	30-Sep-2009	1.34	\$13	\$200	\$213
Other (as needed)	\$10	1-Aug-2009	1-Jan-2010	1.34	\$1	\$10	\$11

Notes for AVOIDED costs

The avoided costs include the estimated amount to conduct repeat sampling, which includes analysis of four additional samples (\$25 each sample), and the estimated amount to provide public notice to the Facility's employees and customers (\$5), calculated for the months in which repeat sampling and public notice did not occur.

Approx. Cost of Compliance \$210

TOTAL \$224

Screening Date 28-Jul-2010

Docket No. 2010-1227-PWS-E

PCW

Respondent DRC BUSINESS INC. dba Kountry Kwik

Policy Revision 2 (September 2002)

Case ID No. 40108

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100927888

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)

Violation Description

Failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result and failed to provide notice to persons served by the Facility regarding the failure to conduct increased routine monitoring during the months of May 2009 and October 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform increased routine coliform monitoring and failure to provide notice could result in employees and customers of the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

62 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended based on the number of months where increased sampling did not occur.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$277

Violation Final Penalty Total \$873

This violation Final Assessed Penalty (adjusted for limits) \$873

Economic Benefit Worksheet

Respondent DRC BUSINESS INC. dba Kountry Kwik
Case ID No. 40108
Req. Ent. Reference No. RN100927888
Media Violation No. Public Water Supply
 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				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]	\$250	30-May-2009	31-Oct-2009	1.34	\$17	\$250	\$267
Other (as needed)	\$10	1-Sep-2009	1-Feb-2010	1.34	\$1	\$10	\$11

Notes for AVOIDED costs

The one-time avoided cost and the other cost include the estimated amount to conduct increased routine sampling, which includes analysis of five monthly samples (\$25 each sample), and the estimated amount to provide public notice to the Facility's employees and customers (\$5 per event), calculated for the months in which increased routine sampling and public notice did not occur.

Approx. Cost of Compliance \$260

TOTAL \$277

Compliance History Report

Customer/Respondent/Owner-Operator: CN603684457 DRC BUSINESS INC Classification: Rating:
Regulated Entity: RN100927888 KOUNTRY KWIK Classification: Site Rating:
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG3354D
PETROLEUM STORAGE TANK REGISTRATION 47895
REGISTRATION
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012461
WATER LICENSING LICENSE 1012461

Location: 29720 HUFFMAN CLEVELAND RD, HUFFMAN, TX, 77336

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 26, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 26, 2005 to July 26, 2010

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

Name: Michaëlle Sherlock Phone: (210) 403-4076

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? Yes
3. If Yes, who is the current owner/operator? OWNOPR DRC Business Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN DGPS Enterprises, Inc.
5. When did the change(s) in owner or operator occur? 02/28/2008

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 04/23/2007 (543152)
 - 2 06/22/2010 (828004)
 - 3 06/28/2010 (828506)
 - 4 06/28/2010 (828532)
 - 5 06/28/2010 (828546)
 - 6 06/28/2010 (828563)
 - 7 06/28/2010 (828575)
 - 8 06/28/2010 (828894)
 - 9 06/28/2010 (828899)
 - 10 06/28/2010 (828906)
 - 11 07/21/2010 (829020)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 1 Date: 06/15/2009 (828004) CN603684457
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 04/2009 - Failure to collect any repeats following a coliform found result.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Repeat Monitoring Violation 04/2009 - Failure to post a public notice for not collecting any repeats following a coliform found result.

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DRC BUSINESS INC. D/B/A
KOUNTRY KWIK;
RN100927888**

§
§
§
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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1227-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 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 DRC BUSINESS INC. d/b/a Kountry Kwik ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a gasoline service station and convenience store with a public water supply located 29720 Huffman Cleveland Road in Huffman, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review investigation conducted on June 15, 2010, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis and failed to provide notice to persons served by the Facility regarding the failure to conduct routine coliform monitoring during the months of June 2009, July 2009, August 2009, November 2009, and April 2010;
 - b. Failed to collect a set of four repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide notice to persons served by the Facility regarding the failure to collect repeat samples during the months of April 2009 and September 2009; and,
 - c. Failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result and failed to provide notice to persons served by the Facility regarding the failure to conduct increased routine monitoring during the months of May 2009 and October 2009.

3. Respondent received notice of the violations on or about July 5, 2010.
4. 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 DRC BUSINESS INC. d/b/a Kountry Kwik," (the "EDPRP") in the TCEQ Chief Clerk's office on March 7, 2011.
5. By letter dated March 7, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide notice to persons served by the Facility regarding the failure to conduct routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect a set of four repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide notice to persons served by the Facility regarding the failure to collect repeat samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect at least five routine distribution coliform samples the month following a total coliform-positive result and failed to provide notice to persons served by the Facility regarding the failure to conduct increased routine monitoring, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 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.

7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of three thousand nine hundred twenty-seven dollars (\$3,927.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
9. 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 three thousand nine hundred twenty-seven dollars (\$3,927.00) for violations of state statutes and 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 which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: DRC BUSINESS INC. d/b/a Kountry Kwik; Docket No. 2010-1227-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.

- b. Within 180 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a.i. and 3.a.ii. 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Stephen Smith, Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. All relief not expressly granted in this Order is denied.
5. 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.
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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARSHALL COOVER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Marshall Coover. 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 DRC BUSINESS INC. d/b/a Kountry Kwik," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 7, 2011.

The EDPRP was mailed to Respondent's last known address on March 7, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.

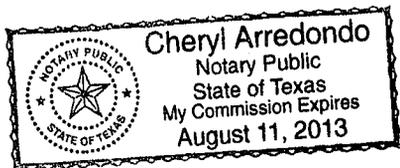
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

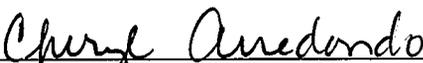


Marshall Coover, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 6th day of April, A.D. 2011.




Notary Signature