

Executive Summary – Enforcement Matter – Case No. 41159

City of Temple

RN101249308

Docket No. 2011-0280-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Temple Water System, 2 North Main Street, Temple, Bell County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 3, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,339

Amount Deferred for Expedited Settlement: \$1,267

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$5,072

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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City of Temple
RN101249308
Docket No. 2011-0280-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 22, 2010

Date(s) of NOE(s): January 6, 2011

Violation Information

1. Failed to ensure all elevated storage tanks are painted, disinfected and maintained in strict accordance with current American Water Works Association (“AWWA”) standards [30 TEX. ADMIN. CODE § 290.43(c)(8)].
2. Failed to enclose the surface water treatment plant and all potable water storage tanks and pressure maintenance facilities with an intruder-resistant fence with lockable gates or within a lockable building [30 TEX. ADMIN. CODE §§ 290.42(m) and 290.43(e)].
3. Failed to obtain an exception in accordance with 30 TEX. ADMIN. CODE § 290.39(l) prior to using any primary disinfectant other than chlorine [30 TEX. ADMIN. CODE § 290.42(e)(3)(G)].
4. Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard, identified in 30 TEX. ADMIN. CODE § 290.47(i) exists [30 TEX. ADMIN. CODE § 290.44(h)(1)(A)].
5. Failed to provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines [30 TEX. ADMIN. CODE § 290.44(d)(2)].
6. Failed to provide documentation showing that the Facility is maintaining internal procedures to notify the ED by a toll-free reporting phone number immediately following certain events that may negatively impact the production or delivery of safe and adequate drinking water [30 TEX. ADMIN. CODE § 290.46(w)].
7. Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].
8. Failed to provide the overflow on the elevated storage tank with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch [30 TEX. ADMIN. CODE § 290.43(c)(3)].

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Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. On December 29, 2010, provided documentation showing that the fence around the Facility is intruder-resistant;
- b. On December 13, 2010, provided documentation showing an air gap had been installed at the Wendland Feed Plant;
- c. On January 25, 2011, obtained an exception to use chlorine gas and liquid ammonium sulfate for primary disinfectant;
- d. On October 29, 2010, provided documentation showing that the Facility is maintaining internal procedures to notify the Executive Director of certain events that may negatively impact the production and delivery of safe and adequate drinking water;
- e. On October 29, 2010, provided documentation showing that the fence at the surface water treatment plant had been cleared of brush, vines and trees and that the leaking valve at the Loop 363 Pump Station has been replaced; and
- f. On January 27, 2011, provided documentation showing the overflow on the Nugent elevated storage tank had a properly sealed gravity-hinged and weighted cover.

Technical Requirements:

- a. Within 30 days, refurbish the exterior coating of the Pepper Creek elevated storage tank to protect it from corrosion;
- b. Within 45 days, submit written certification demonstrating compliance;
- c. Within 180 days, ensure that the booster pumps at the 363 Booster Pump Station are taking suction from the storage tank or obtain an exception to this requirement; and
- d. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

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City of Temple

RN101249308

Docket No. 2011-0280-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Amanda Henry, Enforcement Division,
Enforcement Team 2, MC R-12, (713) 767-3672; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495

TCEQ SEP Coordinator: N/A

Respondent: The Honorable William A. Jones, III, Mayor, City of Temple, 2 North
Main Street, Temple, Texas 76501

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-Jan-2011	Screening	24-Jan-2011	EPA Due	
	PCW	28-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Temple		
Reg. Ent. Ref. No.	RN101249308		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41159	No. of Violations	8
Docket No.	2011-0280-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
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** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7** **\$1,850**

Notes **37.0%** Enhancement
 Enhancement for three NOVs with same/similar violations, one dissimilar NOV, and one final agreed order with denial of liability.

Culpability **Subtotal 4** **\$0**

Notes **0.0%** Enhancement
 The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$511**

Economic Benefit **Subtotal 6** **\$0**

Total EB Amounts **0.0%** Enhancement*
 Approx. Cost of Compliance **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,339**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$6,339**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,339**

DEFERRAL **Adjustment** **-\$1,267**

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 **\$5,072**

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

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>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 37%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for three NOVs with same/similar violations, one dissimilar NOV, and one final agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8)

Violation Description Failed to ensure all elevated storage tanks are painted, disinfected and maintained in strict accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the Pepper Creek elevated storage tank had large areas of excessive rust on the exterior.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes Failure to maintain the exterior coating of the elevated storage tank may compromise the integrity of the tank and could allow for the introduction of significant amounts of contaminants to the Facility which would not exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 95

Table for marking violation frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$500

Two quarterly events are recommended, calculated from the date of the investigation, October 22, 2010, to the date of screening, January 24, 2011.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary (Before NOV, NOV to EDRP/Settlement Offer), Ordinary, N/A (marked 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 \$47,685

Violation Final Penalty Total \$685

This violation Final Assessed Penalty (adjusted for limits) \$685

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
Media Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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)	\$724,900	22-Oct-2010	30-Sep-2011	0.94	\$2,271	\$45,414	\$47,685
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 costs include the estimated amount to refurbish the exterior of the Pepper Creek elevated storage tank so that the tank meets AWWA standards, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$724,900

TOTAL

\$47,685

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.42(m) and 290.43(e)

Violation Description Failed to enclose the surface water treatment plant and all potable water storage tanks and pressure maintenance facilities with an intruder-resistant fence with lockable gates or within a lockable building. Specifically, at the time of the investigation, it was documented that the fence had a broken strand of barbed wire near the east gate of the surface water treatment plant and the east gate of the surface water treatment plant was measured and found to be only six feet eleven inches high with no barbed wire.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failing to enclose the surface water treatment plant with an intruder-resistant fence may allow persons to enter and vandalize the Facility which could expose customers to a significant amount of pollutants which would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 69

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One quarterly event is recommended, calculated from the date of the investigation, October 22, 2010, to the date of compliance, December 29, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$62

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

Notes The Respondent achieved compliance on December 29, 2010.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$281

This violation Final Assessed Penalty (adjusted for limits) \$281

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
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

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)	\$2,500	22-Oct-2010	29-Dec-2010	0.19	\$2	\$31	\$33
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 repair the fence around the surface water treatment plant to render it intruder-resistant, calculated from the investigation date to the date of compliance.

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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,500

TOTAL \$33

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.42(e)(3)(G)

Violation Description

Failed to obtain an exception in accordance with 30 Tex. Admin. Code § 290.39(l) prior to using any primary disinfectant other than chlorine. Specifically, at the time of the investigation, it was documented that the Respondent injects chlorine gas and liquid ammonium sulfate to form chloramines during the treatment process used at the surface water treatment plant. However, the Facility has not received an exception for the use of chloramines as a primary disinfectant.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 96 Number of violation days

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

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$25

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

Notes The Respondent achieved compliance on January 25, 2011.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1 Violation Final Penalty Total \$318

This violation Final Assessed Penalty (adjusted for limits) \$318

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
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)	\$50	22-Oct-2010	25-Jan-2011	0.26	\$0	\$1	\$1
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 costs includes the estimated amount to obtain an exception for the use of chlorine gas and liquid ammonium sulfate as a primary disinfectant, calculated from the investigation date to the 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 \$50

TOTAL \$1

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(1)(A)

Violation Description

Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard identified in 30 Tex. Admin Code § 290.47(i) exists. Specifically, at the time of the investigation, it was documented that the Wendland Feed Plant did not have a backflow prevention assembly or an air gap.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have a backflow prevention assembly or an air gap installed may allow backflow and siphonage to occur resulting in customers of the Facility being exposed to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 2

53 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

Two monthly events are recommended from the date of the investigation, October 22, 2010, to the date of compliance December 13, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent achieved compliance on December 13, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,120

This violation Final Assessed Penalty (adjusted for limits) \$1,120

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$500	22-Oct-2010	13-Dec-2010	0.14	\$0	\$5	\$5
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

The delayed costs include the estimated amount to have a backflow prevention assembly or an air gap installed at the Wendland Feed Plant. The date required is the date of the investigation. The final date is the date of compliance.

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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$5

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.44(d)(2)

Violation Description

Failed to provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines. Specifically, at the time of the investigation, it was documented that the pumps at the 363 Booster Pump Station take suction from the transmission line between the high service pumps at the water treatment plant and the 720 elevated tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to operate the Facility with adequate storage prior to the point of suction may result in backflow problems and low pressure which could expose consumers to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment \$500

\$500

Violation Events

Number of Violation Events 4

95 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Four monthly events are recommended, calculated from the date of the investigation, October 22, 2010, to the date of screening, January 24, 2011.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,737

Violation Final Penalty Total \$2,740

This violation Final Assessed Penalty (adjusted for limits) \$2,740

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
Media Public Water Supply
Violation No. 5

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	\$50,000	22-Oct-2010	28-Feb-2012	1.35	\$226	\$4,511	\$4,737
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 necessary to provide an additional storage tank so that increased pressure can be obtained by means of booster pumps taking suction from a storage tank, calculated from the investigation date 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

\$50,000

TOTAL

\$4,737

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(w)

Violation Description

Failed to provide documentation showing that the Facility is maintaining internal procedures to notify the Executive Director by a toll-free reporting phone number immediately following events that may negatively impact the production or delivery of safe and adequate drinking water.

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 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$62

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

Notes The Respondent achieved compliance on October 29, 2010.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$281

This violation Final Assessed Penalty (adjusted for limits) \$281

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Reg. Ent. Reference No. RN101249308
Media Public Water Supply
Violation No. 6

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)	\$50	22-Oct-2010	29-Oct-2010	0.02	\$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

The delayed cost includes the estimated amount to develop and maintain internal written procedures to notify the Executive Director of certain events that may negatively impact the production and delivery of safe and adequate drinking water, calculated from the investigation date to the 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

\$50

TOTAL

\$0

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)

Violation Description

Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the investigation, it was documented that the fence at the surface water treatment plant had brush, vines and trees growing through it. Additionally, there was a leaking valve at the Loop 363 Pump Station.

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 ensure the good working condition and general appearance of the Facility and its equipment could lead to the harboring of insects, rodents and other disease vectors which could expose customers of the Facility to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

1

7 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$250

One quarterly event is recommended from the date of the investigation, October 22, 2010, to the date of compliance October 29, 2010.

Good Faith Efforts to Comply

25.0% Reduction

\$62

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance on October 29, 2010.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$281

This violation Final Assessed Penalty (adjusted for limits) \$281

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
Media Public Water Supply
Violation No. 7

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)	\$200	22-Oct-2010	29-Oct-2010	0.02	\$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

The delayed costs include the estimated amount to remove all excessive vegetation from the fence surrounding the surface water treatment plant and storage facilities and repair the leaking valve at the Loop 363 Pump Station, calculated from the date of the investigation to the 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 \$200

TOTAL \$0

Screening Date 24-Jan-2011

Docket No. 2011-0280-PWS-E

PCW

Respondent City of Temple

Policy Revision 2 (September 2002)

Case ID No. 41159

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101249308

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(3)

Violation Description

Failed to provide the overflow on the elevated storage tank with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch. Specifically, at the time of the investigation, it was documented that there was no gravity-hinged and weighted cover on the overflow of the Nugent elevated storage tank.

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 provide a gravity-hinged and weighted cover for the elevated storage tank may expose the stored water to significant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

2

97 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two quarterly events are recommended, calculated from the date of the investigation, October 22, 2010, to the date of compliance, January 27, 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$50

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

Notes The Respondent achieved compliance on January 27, 2011.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$635

This violation Final Assessed Penalty (adjusted for limits) \$635

Economic Benefit Worksheet

Respondent City of Temple
Case ID No. 41159
Req. Ent. Reference No. RN101249308
Media Public Water Supply
Violation No. 8

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)	\$500	22-Oct-2010	27-Jan-2011	0.27	\$0	\$9	\$9
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 costs include the estimated amount to provide the overflow on the Nugent elevated storage tank with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch, calculated from the date of the investigation to the 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 \$500

TOTAL \$9

Compliance History

Customer/Respondent/Owner-Operator: CN600245799 City of Temple Classification: AVERAGE Rating: 4.29
Regulated Entity: RN101249308 CITY OF TEMPLE WATER SYSTEM Classification: Site Rating:
0140005
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
WATER LICENSING LICENSE 0140005
Location: 2 N MAIN ST, TEMPLE, BELL COUNTY, TEXAS
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: February 23, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: February 23, 2006 to February 23, 2011
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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 06/26/2006

ADMINORDER 2006-0117-PWS-E

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)

Description: Failure to properly identify all chemical feed lines at the surface water treatment plant.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to post an ownership sign at the membrane surface water treatment plant.

- 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 05/25/2007(555743)

2 05/17/2007 (558710)

3 02/05/2008 (617133)

- 4 11/25/2008 (706916)
- 5 01/20/2009 (721219)
- 6 01/20/2009 (722359)
- 7 03/06/2009 (736163)
- 8 05/15/2009 (744065)
- 9 07/13/2009 (748717)
- 10 01/05/2011 (870519)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

- Date: 04/12/2007 (555743) CN600245799
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.38(25)
 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to provide an intruder-resistant fence in order to protect the elevated storage tank.
- Date: 05/11/2007 (555743) CN600245799
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
 Description: Failure to maintain the exterior coating on the elevated storage tank.
- Date: 11/06/2008 (706916) CN600245799
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
 Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine or 0.50 mg/L total chlorine as per agency regulations.
- Date: 12/03/2008 (706916) CN600245799
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
 Description: Failure to insure that an appropriate backflow prevention assembly or an air gap is installed at all residences or establishments where an actual or potential contamination hazard exists.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)
 Description: Failure to properly maintain the exterior coating on the Pepper Creek elevated storage tank.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain the system facilities to insure the good working condition and general appearance of the system's facilities and equipment.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(C)
 Description: Failure to monitor the disinfectant residual at various locations throughout the distribution system.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(vi)
 Description: Failure to install an approved atmospheric vacuum breaker or a reduced pressure principle backflow assembly in the supply line for surface filter wash systems.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(2)(C)
 Description: Failure to provide a sign at the raw water intakes that designates a 200 foot

restriction zone around the intake.

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
CITY OF TEMPLE
RN101249308**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0280-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 City of Temple ("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 2 North Main Street in Temple, Bell County, Texas (the "Facility") that has approximately 34,454 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 January 10, 2011.
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 Six Thousand Three Hundred Thirty-Nine Dollars (\$6,339) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Seventy-Two Dollars (\$5,072) of the administrative penalty and One Thousand Two Hundred Sixty-Seven Dollars (\$1,267) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived

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

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On December 29, 2010, provided documentation showing that the fence around the Facility is intruder-resistant;
 - b. On December 13, 2010, provided documentation showing an air gap had been installed at the Wendland Feed Plant;
 - c. On January 25, 2011, obtained an exception to use chlorine gas and liquid ammonium sulfate for primary disinfectant;
 - d. On October 29, 2010, provided documentation showing that the Facility is maintaining internal procedures to notify the Executive Director ("ED") of certain events that may negatively impact the production and delivery of safe and adequate drinking water;
 - e. On October 29, 2010, provided documentation showing that the fence at the surface water treatment plant had been cleared of brush, vines and trees and that the leaking valve at the Loop 363 Pump Station has been replaced; and
 - f. On January 27, 2011, provided documentation showing the overflow on the Nugent elevated storage tank had a properly sealed gravity-hinged and weighted cover.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to ensure all elevated storage tanks are painted, disinfected and maintained in strict accordance with current American Water Works Association ("AWWA") standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8), as documented during an investigation conducted on October 22, 2010.
2. Failed to enclose the surface water treatment plant and all potable water storage tanks and pressure maintenance facilities with an intruder-resistant fence with lockable gates or within a lockable building, in violation of 30 TEX. ADMIN. CODE §§ 290.42(m) and 290.43(e), as documented during an investigation conducted on October 22, 2010.
3. Failed to obtain an exception in accordance with 30 TEX. ADMIN. CODE § 290.39(l) prior to using any primary disinfectant other than chlorine, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(G), as documented during an investigation conducted on October 22, 2010.
4. Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard, identified in 30 TEX. ADMIN. CODE § 290.47(i) exists, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A), as documented during an investigation conducted on October 22, 2010.
5. Failed to provide increased pressure by means of booster pumps taking suction from the storage tanks or obtain an exception by acquiring plan approval by the Executive Director for booster pumps taking suction from the distribution lines, in violation of 30 TEX. ADMIN. CODE § 290.44(d)(2), as documented during an investigation conducted on October 22, 2010.
6. Failed to provide documentation showing that the Facility is maintaining internal procedures to notify the ED by a toll-free reporting phone number immediately following certain events that may negatively impact the production or delivery of safe and adequate drinking water, in violation of 30 TEX. ADMIN. CODE § 290.46(w), as documented during an investigation conducted on October 22, 2010.
7. Failed to initiate maintenance and housekeeping practices at the Facility to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m), as documented during an investigation conducted on October 22, 2010.
8. Failed to provide the overflow on the elevated storage tank with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3), as documented during an investigation conducted on October 22, 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: City of Temple, Docket No. 2011-0280-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, refurbish the exterior coating of the Pepper Creek elevated storage tank to protect it from corrosion, in accordance with 30 TEX. ADMIN. CODE § 290.43.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision 2.d, and include 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, ensure that the booster pumps at the 363 Booster Pump Station are taking suction from the storage tank or obtain an exception to this requirement in accordance with 30 TEX. ADMIN. CODE § 290.39. Exception requests shall be submitted to:

Technical Review and Oversight Team
Public Drinking Water Section, MC 155
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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. 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 Strain
For the Executive Director

6/3/2011
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

William A. Jones, III
Signature

April 19, 2011
Date

William A. Jones, III
Name (Printed or typed)
Authorized Representative of
City of Temple



Mayor
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.

APPROVED AS TO FORM:

Jarah Gardner
ATTORNEY'S OFFICE