Executive Summary – Enforcement Matter – Case No. 40698
Tempe Water Supply Corporation
RN101456762
Docket No. 2010-1840-PWS-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
PWS
Small Business:
No
Location(s) Where Violation(s) Occurred:
Tempe WSC, 2120 United States Highway 190 West, Polk 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: April 22, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $1,022
Amount Deferred for Expedited Settlement: $204
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $818
Total Due to General Revenue: $0
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - High
Site/RN - N/A
Major Source: No
Statutory Limit Adjustment: $1,022
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40698
Tempe Water Supply Corporation
RN101456762
Docket No. 2010-1840-PWS-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 7, 2010
Date(s) of NOE(s): October 28, 2010

Violation Information

1. Failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system [30 TEX. ADMIN. CODE § 290.39(j)].

2. Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.43(c)(6)].

3. Failed to provide a ground storage tank ("GST") vent with a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants [30 TEX. ADMIN. CODE § 290.43(c)(1)].

4. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment [30 TEX. ADMIN. CODE § 290.46(m)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days after the effective date of this Agreed Order:

i. Provide notification to the Executive Director of all modifications that have been made to the Facility's production, treatment, storage, pressure maintenance, or distribution system; and

ii. Provide the vent on the 66,000 GST at Plant No. 2 with a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants.

b. Within 45 days after the effective date of this Agreed Order, submit written certification demonstrating compliance.

c. Within 90 days after the effective date of this Agreed Order:

i. Begin maintaining all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, including but not limited to repairing the leaks at the inlet and outlet pipes of the 200,000 gallon GST at Plant No. 1 and the inlet pipe of the 66,000 gallon GST at Plant No. 2; and

ii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, including but not limited to repainting the roof and sides of the 66,000 gallon GST at Plant No. 2 and properly sealing the vent on the 30,000 gallon GST at Plant No. 3.

d. Within 105 days after the effective date of this Agreed Order, 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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Mr. Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Mr. Walter B. Knebel, General Manager, Tempe Water Supply Corporation, 2120 U.S. Highway 190 West, Livingston, Texas 77351
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	1-Nov-2010				
PCW	14-Dec-2010	Screening	10-Nov-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Tempe Water Supply Corporation		
Reg. Ent. Ref. No.	RN101456762		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40698	No. of Violations	4
Docket No.	2010-1840-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Stephen Thompson
		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* **$700**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **46.0%** Enhancement *Subtotals 2, 3, & 7* **$322**

Notes: Enhancement for one NOV with same/similar violations, 13 NOVs with dissimilar violations and one default order.

Culpability No **0.0%** Enhancement *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **$0**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **$0**

Total EB Amounts $888
Approx. Cost of Compliance $6,400
*Capped at the Total EB $ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$1,022**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment* **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$1,022**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$1,022**

DEFERRAL **20.0%** Reduction *Adjustment* **-$204**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$818**

Screening Date 10-Nov-2010 **Docket No.** 2010-1840-PWS-E **PCW**

Respondent Tempe Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 40698 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101456762

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

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 (*number of NOVs meeting criteria*)	1	5%
	Other written NOVs	13	26%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		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) 56%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, 13 NOVs with dissimilar violations and one default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 46%

Screening Date 10-Nov-2010 **Docket No.** 2010-1840-PWS-E **PCW**

Respondent Tempe Water Supply Corporation *Policy Revision 2 (September 2002)*

Case ID No. 40698 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101456762

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(j)

Violation Description Failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system. Specifically, at the time of the record review, it was documented that notification had not been provided to the Executive Director prior to the addition of a 250 gallon per minute service pump at Plant No. 1, the use of polyphosphate treatment at Plant No. 2 and discontinued use of the 1,000 gallon filter and 10,000 gallon aerator at Plant No. 2.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $900

$100

Violation Events

Number of Violation Events 3 | 34 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $300

Three single events (one for each significant change) are recommended.

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $300

Economic Benefit (EB) for this violation

Estimated EB Amount $38

Statutory Limit Test

Violation Final Penalty Total $438

This violation Final Assessed Penalty (adjusted for limits) $438

Economic Benefit Worksheet

Respondent Tempe Water Supply Corporation
Case ID No. 40698
Reg. Ent. Reference No. RN101456762
Media Public Water Supply
Violation No. 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							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$300	4-Aug-2009	1-Jun-2011	1.82	$2	$36	$38
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 necessary to provide three separate notifications to the Executive Director of the modifcations that have been made to the Facility, calculated from the date originally documenting the violation to the estimated date of compliance.

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

Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $300

TOTAL $38

Screening Date	10-Nov-2010	**Docket No.** 2010-1840-PWS-E	**PCW**
Respondent	Tempe Water Supply Corporation		*Policy Revision 2 (September 2002)*
Case ID No.	40698		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101456762		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Stephen Thompson		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(6)

Violation Description Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition. Specifically, at the time of the record review, it was documented that there were leaks at the inlet and outlet pipes of the 200,000 gallon ground storage tank ("GST") at Plant No. 1 and the inlet pipe of the 66,000 gallon GST at Plant No. 2.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain all Facility piping in a watertight condition could allow a significant amount of contaminants to enter the water supply which would not exceed levels protective of human health.

Adjustment $900

$100

Violation Events

Number of Violation Events 2 | 34 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $200

Two quarterly events (one for each location) are recommended, calculated from the date of the record review, October 7, 2010, to the date of screening, November 10, 2010.

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 $200

Economic Benefit (EB) for this violation

Estimated EB Amount $139

Statutory Limit Test

Violation Final Penalty Total $292

This violation Final Assessed Penalty (adjusted for limits) $292

Economic Benefit Worksheet

Respondent Tempe Water Supply Corporation
Case ID No. 40698
Req. Ent. Reference No. RN101456762
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$1,000	4-Aug-2009	1-Aug-2011	1.99	$7	$133	$139
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 necessary to repair all pipes so that they are maintained in a watertight condition, calculated from the date originally documenting the violation to the estimated date of compliance.

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

Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,000

TOTAL $139

Screening Date	10-Nov-2010	**Docket No.** 2010-1840-PWS-E	**PCW**
Respondent	Tempe Water Supply Corporation		*Policy Revision 2 (September 2002)*
Case ID No.	40698		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101456762		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Stephen Thompson		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(1)

Violation Description Failed to provide a GST vent with a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants. Specifically, at the time of the record review, it was documented that the vent on the 66,000 gallon GST at Plant No. 2 did not have a screen.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to provide a screen for the tank vent could result in consumers being exposed to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment $900

$100

Violation Events

Number of Violation Events 1 | 34 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $100

One quarterly event is recommended, calculated from the date of the record review, October 7, 2010, to the date of screening, November 10, 2010.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $100

Economic Benefit (EB) for this violation

Estimated EB Amount $13

Statutory Limit Test

Violation Final Penalty Total $146

This violation Final Assessed Penalty (adjusted for limits) $146

Economic Benefit Worksheet

Respondent Tempe Water Supply Corporation
Case ID No. 40698
Req. Ent. Reference No. RN101456762
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or $							
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$100	4-Aug-2009	1-Jun-2011	1.82	$1	$12	$13
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 necessary to equip the vent on the 66,000 gallon GST at Plant No. 2 with a screen, calculated from the date originally documenting the violation to the estimated date of compliance.

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

Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $100

TOTAL $13

Screening Date	10-Nov-2010	**Docket No.** 2010-1840-PWS-E	**PCW**
Respondent	Tempe Water Supply Corporation		*Policy Revision 2 (September 2002)*
Case ID No.	40698		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101456762		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Stephen Thompson		

Violation Number 4

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

Violation Description Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the record review, it was documented that the paint was peeling on the roof and sides of the 66,000 gallon GST at Plant No. 2 and the vent was not properly sealed on the 30,000 gallon GST at Plant No. 3.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: If the Facility and its equipment are not maintained, customers of the Facility could be exposed to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment $950

$50

Violation Events

Number of Violation Events 2 | 34 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

Two single events (one for each location) are recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $100

Economic Benefit (EB) for this violation

Estimated EB Amount $697

Statutory Limit Test

Violation Final Penalty Total $146

This violation Final Assessed Penalty (adjusted for limits) $146

Economic Benefit Worksheet

Respondent Tempe Water Supply Corporation
Case ID No. 40698
Req. Ent. Reference No. RN101456762
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$5,000	4-Aug-2009	1-Aug-2011	1.99	$33	$664	$697
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 necessary to paint the 66,000 gallon GST at Plant No. 2 and properly seal the vent on the 30,000 gallon GST at Plant No. 3, calculated from the date originally documenting the violation to the estimated date of compliance.

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

Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $5,000

TOTAL $697

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600636484	Tempe Water Supply Corporation	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101456762	TEMPE WSC	Classification:	Site Rating:

ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1870105
	WATER LICENSING	LICENSE	1870105

Location: 2120 U S HIGHWAY 190 W, POLK COUNTY, TX

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: November 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 10, 2005 to November 10, 2010

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

Name: Stephen Thompson Phone: (512) 239-2558

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: 08/10/2008 ADMINORDER 2005-1965-PWS-E

Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)
Description: Failure to issue a boil water notice to their customers within 24 hours, after the water system's water pressure went below 20 psi.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to provide at least 35 psi throughout the distribution system.

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	11/22/2005	(517295)
2	11/22/2005	(517296)
3	04/06/2006	(517298)
4	04/06/2006	(517299)
5	05/07/2007	(558757)
6	11/06/2006	(572487)
7	03/01/2007	(573131)
8	05/21/2007	(573148)
9	09/17/2007	(593831)
10	11/29/2007	(610354)

11	05/14/2008	(639637)
12	01/31/2008	(652019)
13	05/21/2007	(652440)
14	08/09/2007	(652647)
15	11/12/2007	(653005)
16	12/14/2007	(653190)
17	12/14/2007	(653191)
18	12/14/2007	(653192)
19	12/14/2007	(653193)
20	10/01/2009	(765523)
21	08/12/2010	(842866)
22	10/28/2010	(866664)

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

Date: 11/22/2005 (517295) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(F)(1)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: System violated the maximum contaminant level for gross alpha particle activity based on a temporal average for the one-year period of 2004.

Date: 11/22/2005 (517296) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(F)(1)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: System violated the maximum contaminant level for combined radium 226 and 228 based on a temporal average for the one-year period of 2004.

Date: 04/06/2006 (517298) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(F)(1)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: System violated the maximum contaminant level for gross alpha particle activity based on a temporal average for the one-year period of 2005.

Date: 04/06/2006 (517299) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(F)(1)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: System violated the maximum contaminant level for combined radium 226 and 228 based on a temporal average for the one-year period of 2005.

Date: 11/06/2006 (572487) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the third quarter of 2006.

Date: 03/01/2007 (573131) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the fourth quarter of 2006.

Date: 05/21/2007 (573148) CN600636484

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the first quarter of 2007.

Date: 05/21/2007 (652440) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
Description: ARSENIC

Date: 08/09/2007 (652647) CN600636484

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
Description: ARSENIC

Date: 11/12/2007 (653005) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
Description: ARSENIC

Date: 12/14/2007 (653191) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)
Description: TOTAL RADIUM

Date: 12/14/2007 (653192) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)
Description: GROSS ALPHA

Date: 01/31/2008 (652019) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
Description: ARSENIC

Date: 10/01/2009 (765523) CN600636484
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)
Description: Failure to notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
Description: Failure to maintain plant piping in a watertight condition.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to place a screen on the vent of the 0.066 MG GST at Plant No. 2.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to maintain the general appearance of the 0.066 MG GST at Plant No. 2.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failure to properly seal the vent on the 0.03 MG GST at Plant No. 3.

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
TEMPE WATER SUPPLY	§	**TEXAS COMMISSION ON**
CORPORATION	§	
RN101456762	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1840-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 Tempe Water Supply Corporation ("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 2120 United States Highway 190 West in Polk County, Texas (the "Facility") that has approximately 690 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 2, 2010.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of One Thousand Twenty-Two Dollars ($1,022) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Hundred Eighteen Dollars ($818) of the administrative penalty and Two Hundred Four Dollars ($204) 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 may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to notify the Executive Director prior to making any significant change to the Facility's production, treatment, storage, pressure maintenance, or distribution system, in violation of 30 TEX. ADMIN. CODE § 290.39(j), as documented during a record review conducted on October 7, 2010.

2. Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(6), as documented during a record review conducted on October 7, 2010.

3. Failed to provide a ground storage tank ("GST") vent with a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(1), as documented during a record review conducted on October 7, 2010.

4. Failed to initiate maintenance and housekeeping practices 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 a record review conducted on October 7, 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: Tempe Water Supply Corporation, Docket No. 2010-1840-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:

      i. Provide notification to the Executive Director of all modifications that have been made to the Facility's production, treatment, storage, pressure maintenance, or distribution system, including but not limited to the addition of a 250 gallon per minute service pump at Plant No. 1, the use of polyphosphate treatment at Plant No. 2 and discontinued use of the 1,000 gallon filter and 10,000 gallon aerator at Plant No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.39. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning modifications within 15 days after the date of such requests, or by any other deadline specified in writing. The notification shall be submitted to:

         Utilities Technical Review Team
         Water Supply Division MC -159
         Texas Commission on Environmental Quality
         P.O. Box 13087
         Austin, Texas 78711-3087

      ii. Provide the vent on the 66,000 GST at Plant No. 2 with a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants, 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 No. 2.d, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

c. Within 90 days after the effective date of this Agreed Order:

i. Begin maintaining all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition, including but not limited to repairing the leaks at the inlet and outlet pipes of the 200,000 gallon GST at Plant No. 1 and the inlet pipe of the 66,000 gallon GST at Plant No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.43; and

ii. Initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, including but not limited to repainting the roof and sides of the 66,000 gallon GST at Plant No. 2 and properly sealing the vent on the 30,000 gallon GST at Plant No. 3, in accordance with 30 TEX. ADMIN. CODE § 290.46.

d. Within 105 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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 Sadler
For the Executive Director

5/20/2011
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.

Walter B. Knebel
Signature

3/4/11
Date

WALTER B. KNEBEL
Name (Printed or typed)
Authorized Representative of
Tempe Water Supply Corporation

GEN MGR
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.