

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41991  
Richard Allen Keenan dba K & B Waterworks  
RN102690187  
Docket No. 2011-1163-PWS-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

dead end of Treepoint Lane adjacent to 24<sup>th</sup> Street off Avenue T, Santa Fe, Galveston County

**Type of Operation:**

public water system

**Other Significant Matters:**

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

**Texas Register Publication Date:** September 28, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$2,042

**Total Paid to General Revenue:** \$142

**Total Due to General Revenue:** \$1,900

Payment Plan: 19 payments of \$100 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – N/A

Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** \$233 (enhancement)

**Applicable Penalty Policy:** September 2002

**Richard Allen Keenan dba K & B Waterworks**

RN102690187

Docket No. 2011-1163-PWS-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** June 13, 2011  
**Date(s) of NOV(s):** See Compliance History – 11 related NOVs  
**Date(s) of NOE(s):** June 18, 2011

**Violation Information**

1. Failed to timely submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to submit to the Executive Director by July 1 of each year a copy of the annual Consumer Confidence Report (CCR) and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE § 290.274(c)].
3. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected, and failed to provide public notification of the failure to collect the repeat distribution sample [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].
4. Failed to collect raw groundwater source *Escherichia coli* samples from all sources within 24 hours of being notified of a distribution total coliform-positive result, and failed to provide public notification of the failure to collect the raw groundwater source *Escherichia coli* samples [30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)].
5. Failed to provide the results of annual nitrate sampling to the Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
6. Failed to provide the results of triennial sampling for metals, minerals and radionuclide levels to the Executive Director [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.108(e)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

Respondent submitted the CCR for the year 2009 as of August 24, 2011.

**Technical Requirements:**

1. Within 10 days:
  - a. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and
  - b. Begin complying with applicable coliform monitoring requirements by collecting routine and repeat coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting.
2. Within 30 days:
  - a. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs;
  - b. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established; and

**Richard Allen Keenan dba K & B Waterworks**

**RN102690187**

**Docket No. 2011-1163-PWS-E**

- c. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director
3. Submit written certification to demonstrate compliance:
    - a. Within 25 days for Technical Requirement No. 1.a;
    - b. Within 45 days for Technical Requirement No. 2; and
    - c. Within 195 days for Technical Requirement No. 1.b.

**Litigation Information**

**Date Petition(s) Filed:** December 13, 2011  
**Date Answer(s) Filed:** January 6, 2012  
**SOAH Referral Date:** February 8, 2012  
**Hearing Date(s):**  
Preliminary hearing: March 22, 2012  
Evidentiary hearing: August 24, 2012 (scheduled)  
**Settlement Date:** August 15, 2012

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363  
**TCEQ SEP Coordinator:** N/A  
**TCEQ Enforcement Coordinator:** Katy Schumann, Enforcement Division, (512) 239-2602  
**TCEQ Regional Contact:** Stephen Smith, Houston Regional Office, (713) 767-3500  
**Respondent:** Richard Allen Keenan, K & B Waterworks, 12508 28th Street, Santa Fe, Texas 77510  
**Respondent's Attorney:** N/A

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	20-Jun-2011	<b>Screening</b>	28-Jun-2011	<b>EPA Due</b>	30-Sep-2010
	<b>PCW</b>	9-Aug-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Richard Allen Keenan dba K & B Waterworks
<b>Reg. Ent. Ref. No.</b>	RN102690187
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41991	<b>No. of Violations</b>	6
<b>Docket No.</b>	2011-1163-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Schumann
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,070
---	-------------------	---------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	55.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$588
---------------------------	-------------------	--------------------------------	-------

<b>Notes</b>	Enhancement for 11 NOVs with same/similar violations.
--------------	---

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$392	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,997	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,657
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	9.2%	<b>Adjustment</b>	\$152
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to recover the avoided costs of compliance for Violation Nos. 3 and 4.
--------------	--

<b>Final Penalty Amount</b>	\$1,809
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,042
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
-----------------	----------------	-------------------	-----

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

<b>Notes</b>	No deferral is recommended for Findings Orders.
--------------	---

<b>PAYABLE PENALTY</b>	\$2,042
------------------------	---------

**Screening Date** 28-Jun-2011

**Docket No.** 2011-1163-PWS-E

**PCW**

**Respondent** Richard Allen Keenan dba K & B Waterworks

*Policy Revision 2 (September 2002)*

**Case ID No.** 41991

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102690187

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Katy Schumann

### 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> )	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 55%

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

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for 11 NOVs with same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

Screening Date 28-Jun-2011

Docket No. 2011-1163-PWS-E

PCW

Respondent Richard Allen Keenan dba K & B Waterworks

Policy Revision 2 (September 2002)

Case ID No. 41991

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690187

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.110(e)(4)(A) and 290.110(f)(3)

Violation Description Failed to timely submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, at the time of the record review, it was documented that the Respondent did not timely submit DLQORs for the third quarter of 2009 through the fourth quarter of 2010.

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	1%
Less than 30% of the rule requirement was not met.					

Adjustment \$990

\$10

Violation Events

Number of Violation Events 6 457 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$60
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Six quarterly events are recommended, calculated for the dates in which the reports were not submitted.

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 \$60

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14 Violation Final Penalty Total \$102

This violation Final Assessed Penalty (adjusted for limits) \$300

## Economic Benefit Worksheet

**Respondent** Richard Allen Keenan dba K & B Waterworks  
**Case ID No.** 41991  
**Req. Ent. Reference No.** RN102690187  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	13-Jun-2011	1-Apr-2012	0.80	\$2	n/a	\$2
Training/Sampling	\$100	13-Jun-2011	1-Apr-2012	0.80	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$135	10-Oct-2009	10-Jan-2011	1.25	\$8	n/a	\$8

Notes for DELAYED costs

The delayed costs include the estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs. Date required is the record review date and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to submit DLQORs (\$22.50 per report). Date required is the date the first report was due and the final date is the date the last report was due.

### 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

\$280

**TOTAL**

\$14

Screening Date 28-Jun-2011

Docket No. 2011-1163-PWS-E

PCW

Respondent Richard Allen Keenan dba K & B Waterworks

Policy Revision 2 (September 2002)

Case ID No. 41991

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690187

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.274(c)

Violation Description

Failed to timely submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not timely submit the CCR or the required certification to the TCEQ for the year 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$10

One annual event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$1

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

Notes The Respondent achieved compliance on August 24, 2011.

Violation Subtotal \$9

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$16

This violation Final Assessed Penalty (adjusted for limits) \$50

## Economic Benefit Worksheet

**Respondent** Richard Allen Keenan dba K & B Waterworks  
**Case ID No.** 41991  
**Req. Ent. Reference No.** RN102690187  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$67	1-Jul-2010	24-Aug-2011	1.15	\$0	\$5	\$5
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 prepare and mail or directly deliver the CCR to the customers of the Facility (calculation: (\$0.50 x 34 connections + \$50) x 1 year), calculated for the year in which the CCR was due 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

\$67

**TOTAL**

\$5

Screening Date 28-Jun-2011

Docket No. 2011-1163-PWS-E

PCW

Respondent Richard Allen Keenan dba K & B Waterworks

Policy Revision 2 (September 2002)

Case ID No. 41991

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690187

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 3

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

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected during the month of February 2011, and failed to provide public notice of the failure to collect repeat distribution samples within 24 hours of being notified of a total coliform positive sample for February 2011. Specifically, the Respondent collected one of the required repeat distribution coliform samples.

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

Failure to collect repeat samples could expose persons served by the Facility to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 28 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended for the month in which no repeat samples were taken.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$101

Violation Final Penalty Total \$423

This violation Final Assessed Penalty (adjusted for limits) \$423

## Economic Benefit Worksheet

**Respondent** Richard Allen Keenan dba K & B Waterworks  
**Case ID No.** 41991  
**Req. Ent. Reference No.** RN102690187  
**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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$75	28-Feb-2011	28-Feb-2011	0.00	\$0	\$75	\$75
Other (as needed)	\$25	28-Feb-2011	31-May-2011	1.17	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated cost to collect a total of three repeat water samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$25 per notice), calculated for the month in which no repeat samples were collected and during the period public notification was required.

Approx. Cost of Compliance

\$100

**TOTAL**

\$101

Screening Date 28-Jun-2011

Docket No. 2011-1163-PWS-E

PCW

Respondent Richard Allen Keenan dba K & B Waterworks

Policy Revision 2 (September 2002)

Case ID No. 41991

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690187

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A)

Violation Description Failed to collect raw groundwater source Escherichia coli samples from all sources within 24 hours of being notified of a distribution total coliform-positive result during the month of February 2011, and failed to provide public notification of the failure to collect raw groundwater source Escherichia coli samples for the month of February 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes Failure to perform triggered source monitoring could result in persons served by the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 28

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$250

One monthly event is recommended for the month in which the triggered source sample was not collected.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$51

Violation Final Penalty Total \$423

This violation Final Assessed Penalty (adjusted for limits) \$423

## Economic Benefit Worksheet

**Respondent** Richard Allen Keenan dba K & B Waterworks  
**Case ID No.** 41991  
**Req. Ent. Reference No.** RN102690187  
**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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	28-Feb-2011	28-Feb-2011	0.00	\$0	\$25	\$25
Other (as needed)	\$25	28-Feb-2011	31-May-2011	1.17	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect raw groundwater source samples for each active groundwater well (\$25 per sample) calculated for the 24-hour period following the coliform-positive result and during the period public notification was required.

Approx. Cost of Compliance \$50

**TOTAL** \$51

Screening Date 28-Jun-2011

Docket No. 2011-1163-PWS-E

PCW

Respondent Richard Allen Keenan dba K & B Waterworks

Policy Revision 2 (September 2002)

Case ID No. 41991

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690187

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.106(e)

Violation Description Failed to provide the results of annual nitrate sampling to the TCEQ's Executive Director. Specifically, the Respondent failed to provide nitrate sampling results for 2009 and 2010.

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			10%
100% of the rule requirement was not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 729 Number of violation days

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

Violation Base Penalty \$200

Two annual events are recommended for the time period in which sampling results were not provided to the Executive Director.

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

Statutory Limit Test

Estimated EB Amount \$219

Violation Final Penalty Total \$338

This violation Final Assessed Penalty (adjusted for limits) \$338

## Economic Benefit Worksheet

**Respondent** Richard Allen Keenan dba K & B Waterworks  
**Case ID No.** 41991  
**Req. Ent. Reference No.** RN102690187  
**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)	\$1,500	31-Dec-2009	1-Feb-2012	2.09	\$10	\$209	\$219
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 pay any outstanding lab fees so that the lab will release the the results for all chemical analysis for the Facility. The date required is the first year in which the nitrate results were not provided and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$219

Screening Date 28-Jun-2011

Docket No. 2011-1163-PWS-E

PCW

Respondent Richard Allen Keenan dba K & B Waterworks

Policy Revision 2 (September 2002)

Case ID No. 41991

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102690187

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 290.106(e) and 290.108(e)

Violation Description Failed to provide the results of triennial sampling for metals, minerals and radionuclide levels to the TCEQ's Executive Director. Specifically, the Respondent failed to provide metal, mineral and radionuclide sampling results for the sampling period from January 1, 2008 through December 31, 2010.

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			10%
100% of the rule requirement was not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3 1095 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 are recommended for the three sampling results not provided to the Executive Director.

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

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$508

This violation Final Assessed Penalty (adjusted for limits) \$508

## Economic Benefit Worksheet

**Respondent** Richard Allen Keenan dba K & B Waterworks  
**Case ID No.** 41991  
**Req. Ent. Reference No.** RN102690187  
**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)				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 are captured in the economic benefit worksheet associated with Violation No. 5.

### 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

\$0

**TOTAL**

\$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN603550906 KEENAN, RICHARD ALLEN	Classification:	Rating:
Regulated Entity:	RN102690187 K & B WATERWORKS	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0840187
	WATER LICENSING	LICENSE	0840187
Location:	24th STREET OFF AVE T AT DEAD END OF TREEPOINT STREET, SANTA FE, GALVESTON COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 27, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 27, 2006 to June 27, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:			
Name:	Katy Schumann	Phone:	(512) 239-2602

## 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.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	07/19/2006	(479935)	7	06/15/2011	(933492)
2	06/07/2010	(824779)	8	06/15/2011	(933498)
3	06/15/2011	(933324)	9	06/15/2011	(933501)
4	06/15/2011	(933476)	10	06/15/2011	(933505)
5	06/15/2011	(933482)	11	06/16/2011	(933874)
6	06/15/2011	(933486)	12	06/17/2011	(933949)

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

<b>Date: 05/29/2010</b>	<b>(824779)</b>	<b>CN603550906</b>
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)	
Description:	Capacity Requirements. Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include a well capacity of 1.5 gallons per minute per connection.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)	
Description:	Operating Practices for Public Water Systems. Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment. These practices should include the reconditioning of the pressure tank's exterior surface.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)	
Description:	Monitoring Plans. Failure by the regulated entity to develop and maintain an up to date system monitoring plan. Mr. Keenan was unable to provide a monitoring plan with any of the required information.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)	
Description:	Operating Practices for Public Water Supply. Failure by the regulated entity, which serves no more than 250 connections and only uses groundwater, to employ a water works operator holding a valid Class "D" or higher operator's license. During the inspection, Mr. Keenan represented himself as the operator of the system	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(4)	
Description:	Disinfectant Residual Reporting Requirements. Failure by a community or non-transient non-community public water system that uses purchased water or groundwater sources only to submit a Disinfectant Level Quarterly Operating Report (DLQOR) each quarter by the 10th day of the month following the quarter.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)	
Description:	Design and Construction of Pressure Tanks. Failure to inspect the interior of a pressure tank provided with an inspection port at least every five years. The interior surface must be inspected for water tightness, integrity, and corrosion.	

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(p)(2)  
Description: Operating Practices for Public Water Systems. Failure by the responsible official of a public water system to provide annually to the Executive Director a written list of all the operators and operating companies that the public water system employs.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)  
Description: Disinfectant Residual and Monitoring. Failure to perform a chlorine residual test, at least once every seven days, on water collected from various locations within the distribution system. Mr. Keenan was unable to provide any documentation that chlorine residual tests were being conducted.

**Date: 12/22/2010 (933505) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)  
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2009 to its bill-paying customers.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)  
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2009 CCR year to the TCEQ.

**Date: 03/31/2011 (933874) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: TCR Repeat Monitoring Violation 02/2011 - Failure to collect all repeats following a coliform found result.

**Date: 04/05/2011 (933874) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)  
Description: GWR Triggered Source Monitoring Violation 02/2011 - Failure to collect any triggered source monitoring sample(s) following a coliform found result, for one source.

**Date: 06/15/2011 (933486) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: This system failed to monitor and/or failed to report metal levels at EP001 to the TCEQ for the triennial period from 01/01/2008 to 12/31/2010.

**Date: 06/15/2011 (933498) CN603550906**  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: This system failed to monitor and/or failed to report nitrate/nitrite levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2009 to 12/31/2009.

**Date: 06/15/2011 (933492) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: This system failed to monitor and/or failed to report mineral levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

**Date: 06/15/2011 (933482) CN603550906**  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: This system failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

**Date: 06/15/2011 (933501) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(3)  
30 TAC Chapter 290, SubChapter F 290.108(f)(4)  
Description: This system failed to monitor and/or failed to report radionuclide levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

**Date: 06/15/2011 (933324) CN603550906**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

**Date:** 06/15/2011 (933476)

**CN603550906**

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010.

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

**THIS PAGE INTENTIONALLY LEFT BLANK**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RICHARD ALLEN KEENAN DBA  
K & B WATERWORKS;  
RN102690187**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2011-1163-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Richard Allen Keenan dba K & B Waterworks ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at the dead end of Treepoint Lane adjacent to 24<sup>th</sup> Street off Avenue T in Santa Fe, Galveston County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 34 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on June 13, 2011, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to timely submit a Disinfectant Level Quarterly Operating Report (DLQOR) to the Executive Director by the tenth day of the month following the end of each quarter. Specifically, Respondent did not timely submit DLQORs for the third quarter of 2009 through the fourth quarter of 2010;

- b. Failed to submit to the Executive Director by July 1 of each year a copy of the annual Consumer Confidence Report (CCR) and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, Respondent did not submit the CCR and required certification to the Executive Director for the year 2009;
  - c. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected during the month of February 2011, and failed to provide public notification of the failure to collect the repeat distribution sample;
  - d. Failed to collect raw groundwater source *Escherichia coli* samples from all sources within 24 hours of being notified of a distribution total coliform-positive result during the month of February 2011, and failed to provide public notification of the failure to collect the raw groundwater source *Escherichia coli* samples;
  - e. Failed to provide the results of annual nitrate sampling to the Executive Director for 2009 and 2010; and
  - f. Failed to provide the results of triennial sampling for metals, minerals and radionuclide levels to the Executive Director for the sampling period from January 1, 2008 through December 31, 2010.
3. Respondent received notice of the violations on or about June 22, 2011.
  4. The Executive Director recognizes that Respondent submitted the CCR for the year 2009 as of August 24, 2011 (Conclusion of Law No. 3).

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to timely submit a DLQOR to the Executive Director by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit to the Executive Director by July 1 of each year a copy of the annual Consumer Confidence Report (CCR) and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE § 290.274(c).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected, and failed to provide public notification of the failure to collect the repeat distribution sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed collect raw groundwater source *Escherichia coli* samples from all sources within 24 hours of being notified of a distribution total coliform-positive result, and failed to provide public notification of the failure to collect the raw groundwater source *Escherichia coli* samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(A).

6. As evidenced by Finding of Fact No. 2.e., Respondent failed to provide the results of annual nitrate sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to provide the results of triennial sampling for metals, minerals and radionuclide levels to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.108(e).
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of two thousand forty-two dollars (\$2,042.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid one hundred forty-two dollars (\$142.00) of the administrative penalty. The remaining amount of one thousand nine hundred dollars (\$1,900.00) of the administrative penalty shall be payable in nineteen (19) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 9, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Richard Allen Keenan dba K & B Waterworks, Docket No. 2011-1163-PWS-E" to:

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

2. Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order, Respondent shall:
    - i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122 (Conclusions of Law Nos. 4 and 5); and
    - ii. Begin complying with applicable coliform monitoring requirements by collecting routine and repeat coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109 (Conclusions of Law No. 4 and 5). This provision will be satisfied upon six consecutive months of compliance monitoring and reporting.
  - b. Within 25 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provisions No. 2.a.i.
  - c. Within 30 days after the effective date of this Agreed Order, Respondent shall:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 2);
    - ii. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 and 290.108 (Conclusions of Law Nos. 6 and 7); and
    - iii. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director, in accordance with TEX. ADMIN. CODE §§ 290.106 and 290.108.
  - d. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provisions Nos. 2.c.i. through 2.c.iii.
  - e. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.a.ii.
  - f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Elston Johnson, Public Drinking Water Program, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director.
6. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.

10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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



\_\_\_\_\_  
For the Executive Director



\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Richard Allen Keenan dba K & B Waterworks, 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.

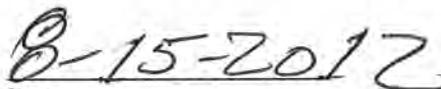
I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



\_\_\_\_\_  
Signature - Richard Allen Keenan



\_\_\_\_\_  
Date