

Executive Summary – Enforcement Matter – Case No. 40698
TEMPE WATER SUPPLY CORPORATION
RN101456762
Docket No. 2012-2575-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

TEMPE WSC, 2120 U.S. 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 5, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$842

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$842

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$146

Applicable Penalty Policy: September 2002 and September 2011

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TEMPE WATER SUPPLY CORPORATION
RN101456762
Docket No. 2012-2575-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 19, 2012

Date(s) of NOE(s): November 5, 2012

Violation Information

1. Failed to maintain thorough and up-to-date plant operations manuals for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].
2. Failed to provide an intruder-resistant fence to protect the Facility's well sites [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].
3. Failed to maintain disinfection equipment which has a capacity of at least 50% greater than the highest expected dosage to be applied at any time [30 TEX. ADMIN. CODE § 290.42(e)(3)(A)].
4. Failed to notify the Executive Director ("ED") 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) and TEX. HEALTH & SAFETY CODE § 341.0351 and TCEQ Agreed Order Docket No. 2010-1840-PWS-E, Ordering Provision No. 2.a.i.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On December 11, 2012, repaired the fence at the Red Lowe Plant and Farm-to-Market 2457 Plant so that they are both intruder-resistant; and
- b. On December 21, 2012, submitted documentation demonstrating that the plant operations manuals are accurate and up-to-date.

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days:
 - i. Install or upgrade a rotameter with a capacity of at least 50% greater than the highest expected disinfectant dosage;

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ii. Provide written notification to the ED 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 the discontinued use of the 1,000 gallon filter and the 10,000 gallon aerator at Plant No. 2. 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.

b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision d.

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: Katy Schumann, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2602; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Corry T. Jones, President - Board of Directors, TEMPE WATER SUPPLY CORPORATION, P.O. Box 8, 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	12-Nov-2012	Screening	3-Dec-2012	EPA Due	
	PCW	10-Jan-2013				

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	1
Docket No.	2012-2575-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Katy Schumann
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 3-Dec-2012

Docket No. 2012-2575-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 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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one final enforcement order with a denial of liability and one default order.

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

Screening Date 3-Dec-2012

Docket No. 2012-2575-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 Katy Schumann

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(j) and Tex. Health & Safety Code § 341.0351 and TCEQ Agreed Order Docket No. 2010-1840-PWS-E, Ordering Provision No. 2.a.i.

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 investigation, 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 the discontinued used of the 1,000 gallon filter and the 10,000 gallon aerator at Plant No. 2.

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			10%

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3 Number of violation days 478

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$300

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

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 \$41

Violation Final Penalty Total \$435

This violation Final Assessed Penalty (adjusted for limits) \$435

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	13-Aug-2011	31-Jul-2013	1.97	\$2	\$39	\$41
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 necessary to provide three separate notifications to the Executive Director of the modifications that have been made to the Facility, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1840-PWS-E, 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

\$41



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	12-Nov-2012	Screening	3-Dec-2012	EPA Due	
	PCW	10-Jan-2013				

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	3
Docket No.	2012-2575-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Katy Schumann
		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** **\$190**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **45.0%** Enhancement **Subtotals 2, 3, & 7** **\$85**

Notes: Enhancement for one final enforcement order with a denial of liability 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** **\$14**

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

Total EB Amounts \$36
Approx. Cost of Compliance \$940
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$261**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$261**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$407**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$407**

Screening Date 3-Dec-2012

Docket No. 2012-2575-PWS-E

PCW

Respondent TEMPE WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 40698

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101456762

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 45%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one final enforcement order with a denial of liability and one default order.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 45%

Screening Date 3-Dec-2012

Docket No. 2012-2575-PWS-E

PCW

Respondent TEMPE WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 40698

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101456762

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.42(l)

Violation Description

Failed to maintain thorough and up-to-date plant operations manuals for operator review and reference. Specifically, at the time of the investigation, it was documented that the emergency contact information for the federal regulating entity was missing from each of the plant operations manuals, including the Red Lowe Plant, the Bold Springs Plant, the Farm-to-Market 2457 Plant, and the Oak Hill Plant. Additionally, the manuals for the Red Lowe Plant, Bold Springs Plant, and the Farm-to-Market 2457 Plant include incorrect information regarding the equipment located at the respective plants.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

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

Adjustment \$990

\$10

Violation Events

Number of Violation Events 4

45 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$40

Four single events are recommended (one for each Plant).

Good Faith Efforts to Comply

10.0% Reduction

\$4

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

Notes

The Respondent achieved compliance on December 21, 2012.

Violation Subtotal \$36

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$54

This violation Final Assessed Penalty (adjusted for limits) \$200

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$200	19-Oct-2012	21-Dec-2012	0.17	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to update all four of the plant operations manuals, calculated from the date of the investigation to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$2

Screening Date 3-Dec-2012
Respondent TEMPE WATER SUPPLY CORPORATION
Case ID No. 40698

Docket No. 2012-2575-PWS-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101456762
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(O)

Violation Description

Failed to provide an intruder-resistant fence to protect the Facility's well sites. Specifically, at the time of the investigation, it was documented that there were large holes at the bottom of the fences at the Red Lowe Plant and the Farm-to-Market 2457 Plant.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
Failure to properly secure the Facility and appurtenances with an intruder-resistant fence and provide adequate maintenance and housekeeping practices could cause customers of the Facility to be exposed to a significant amount of contaminants, which would not exceed levels that are protective of human health.				0.0%

Adjustment \$950

\$50

Violation Events

Number of Violation Events 2 45 Number of violation days

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

Violation Base Penalty \$100

Two quarterly events are recommended (one for each Plant).

Good Faith Efforts to Comply

10.0% Reduction \$10

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

Notes The Respondent achieved compliance on December 11, 2012.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Estimated EB Amount \$1

Statutory Limit Test

Violation Final Penalty Total \$135

This violation Final Assessed Penalty (adjusted for limits) \$135

Economic Benefit Worksheet

Respondent TEMPE WATER SUPPLY CORPORATION
Case ID No. 40698
Reg. Ent. Reference No. RN101456762
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$140	19-Oct-2012	11-Dec-2012	0.15	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to clean and repair the fences (\$35/hour x 4 hours), calculated from the date of the investigation to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$140

TOTAL

\$1

Screening Date 3-Dec-2012
Respondent TEMPE WATER SUPPLY CORPORATION
Case ID No. 40698

Docket No. 2012-2575-PWS-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101456762
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann
Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.42(e)(3)(A)
Violation Description Failed to maintain disinfection equipment which has a capacity of at least 50% greater than the highest expected dosage to be applied at any time. Specifically, at the time of the investigation, it was documented that the rotameter only read up to 25 gallons per minute ("gpm") when the documented dosage was 22 gpm.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5.0%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failing to have disinfection equipment with adequate operating capacity could result in improper disinfection of the water exposing customers of the Facility to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 45

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

Violation Base Penalty \$50

One quarterly event is recommended, calculated from the investigation date, October 19, 2012, to the screening date, December 3, 2012.

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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$73

This violation Final Assessed Penalty (adjusted for limits) \$73

Economic Benefit Worksheet

Respondent TEMPE WATER SUPPLY CORPORATION
Case ID No. 40698
Reg. 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
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No commas or \$

Delayed Costs

Equipment	\$600	19-Oct-2012	31-Jul-2013	0.78	\$2	\$31	\$33
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 cost includes the estimated amount to upgrade or install a higher capacity rotameter, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

\$600

TOTAL

\$33



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600636484, RN101456762, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600636484, Tempe Water Supply Corporation **Classification:** SATISFACTORY **Rating:** 20.67

Regulated Entity: RN101456762, TEMPE WSC **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 2120 UNITED STATES HIGHWAY 190 WEST, POLK COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION **WATER LICENSING LICENSE** 1870105
1870105

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: December 03, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 03, 2007 to December 03, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katy Schumann

Phone: (512) 239-2602

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 08/10/2008 ADMINORDER 2005-1965-PWS-E (Findings Order-Default)
 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.

- 2 Effective Date: 08/13/2011 ADMINORDER 2010-1840-PWS-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)
 Description: Failed to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution system.
 Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
 Description: Failed to maintain all treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances in a watertight condition.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)

Description: Failed to provide a ground storage tank vent with a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants.

Classification: Minor

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

Description: Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEMPE WATER SUPPLY
CORPORATION
RN101456762**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-2575-PWS-E**

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 presented this agreement to the Commission.

The Respondent understands that it 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, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 the Respondent.

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

I. FINDINGS OF FACT

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 704 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on October 19, 2012, TCEQ staff documented that the emergency contact information for the federal regulating entity was missing from each of the plant operations manuals, including the Red Lowe Plant, the Bold Springs Plant, the Farm-to-Market 2457 Plant, and the Oak Hill Plant. Additionally, the manuals for the Red Lowe Plant, Bold Springs Plant, and the Farm-to-Market 2457 Plant include incorrect information regarding the equipment located at the respective plants.
3. During an investigation conducted on October 19, 2012, TCEQ staff documented there were large holes at the bottom of the fences at the Red Lowe Plant and the Farm-to-Market 2457 Plant.
4. During an investigation conducted on October 19, 2012, TCEQ staff documented that the rotameter only read up to 25 gallons per minute ("gpm") when the documented dosage was 22 gpm.
5. During an investigation conducted on October 19, 2012, TCEQ staff 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 the discontinued use of the 1,000 gallon filter and the 10,000 gallon aerator at Plant No. 2.
6. The Respondent received notice of the violations on November 7, 2012.
7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On December 11, 2012, repaired the fence at the Red Lowe Plant and Farm-to-Market 2457 Plant so that they are both intruder-resistant; and
 - b. One December 21, 2012, submitted documentation demonstrating that the plant operations manuals are accurate and up-to-date.

II. CONCLUSIONS OF LAW

1. The 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 Findings of Fact No. 2, the Respondent failed to maintain thorough and up-to-date plant operations manuals for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide an intruder-resistant fence to protect the Facility's well sites, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O).

4. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain disinfection equipment which has a capacity of at least 50% greater than the highest expected dosage to be applied at any time, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3)(A).
5. As evidenced by Findings of Fact No. 5, the Respondent 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) and TEX. HEALTH & SAFETY CODE § 341.0351 and TCEQ Agreed Order Docket No. 2010-1840-PWS-E, Ordering Provision No. 2.a.i.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Eight Hundred Forty-Two Dollars (\$842) 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(b). The Respondent has paid the Eight Hundred Forty-Two Dollar (\$842) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Eight Hundred Forty-Two Dollars (\$842) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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. 2012-2575-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
- i. Install or upgrade a rotameter with a capacity of at least 50% greater than the highest expected disinfectant dosage, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
 - ii. Provide written 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 the discontinued use of the 1,000 gallon filter and the 10,000 gallon aerator at Plant No. 2, in accordance with 30 TEX. ADMIN. CODE § 290.39. 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

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.

- b. Within 45 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 Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. 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.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Jones
For the Executive Director

5/9/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of TEMPE WATER SUPPLY CORPORATION. I am authorized to agree to the attached Agreed Order on behalf of TEMPE WATER SUPPLY CORPORATION, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, TEMPE WATER SUPPLY CORPORATION waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Corry T. Jones
Signature

2/5/13
Date

CORRY T. JONES
Name (Printed or typed)
Authorized Representative of
TEMPE WATER SUPPLY CORPORATION

President, Board of Directors
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.