

**Elizabeth Perez d/b/a JD's Kwik Stop**

RN105486518

Docket No. 2013-0704-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:**

16672 United States Highway 83 North, Laredo, Webb County

**Type of Operation:**

public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions:	2013-1563-PWS-E (AO pending publication)
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

<b>Texas Register Publication Date:</b>	October 25, 2013
---	------------------

<b>Comments Received:</b>	None
---------------------------	------

**Penalty Information**

<b>Total Penalty Assessed:</b>	\$8,312
--------------------------------	---------

<b>Total Paid to General Revenue:</b>	\$822
---------------------------------------	-------

<b>Total Due to General Revenue:</b>	\$7,490
--------------------------------------	---------

Payment Plan:	35 payments of \$214 each
---------------	---------------------------

**Compliance History Classifications:**

Person/CN – High

Site/RN – High

<b>Major Source:</b>	No
----------------------	----

<b>Statutory Limit Adjustment:</b>	None
------------------------------------	------

<b>Applicable Penalty Policy:</b>	September 2002
-----------------------------------	----------------

**Investigation Information**

<b>Complaint Date(s):</b>	N/A
---------------------------	-----

<b>Date(s) of Investigation:</b>	January 11, 2013; March 28, 2013
----------------------------------	----------------------------------

<b>Date(s) of NOV(s):</b>	N/A
---------------------------	-----

<b>Date(s) of NOE(s):</b>	March 7, 2013
---------------------------	---------------

**Elizabeth Perez d/b/a JD's Kwik Stop**

RN105486518

Docket No. 2013-0704-PWS-E

**Violation Information**

1. Failed to submit engineering plans and specifications to the Executive Director and receive written approval prior to beginning construction of a new public water supply system [TEX. HEALTH & SAFETY CODE § 341.035(a); 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1); and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.c].
2. Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter free chlorine residual throughout the distribution system at all times [TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4); and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.a].
3. Failed to submit well completion data for review and approval prior to placing a public drinking water well into service [30 TEX. ADMIN. CODE § 290.41(c)(3)(A) and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.c].
4. Failed to pay Public Health Service (“PHS”) fees for TCEQ Financial Administration Account No. 92400035 for Fiscal Year 2013 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

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

Paid past-due PHS fees on April 22, 2013.

**Technical Requirements:**

1. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that a disinfectant residual concentration of at least 0.2 mg/L free chlorine is maintained throughout the distribution system. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
2. Within 180 days:
  - a. Submit well completion data for review and approval; and
  - b. Submit accurate, up-to-date and detailed as-built plans and specifications for review and approval.
3. Within 195 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** September 13, 2013

**Date Answer(s) Filed:** N/A

**Settlement Date:** September 20, 2013

**Contact Information**

**TCEQ Attorneys:** Joel Cordero, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Abigail Lindsey, Enforcement Division, 512.239.2576

**TCEQ Regional Contact:** Arnaldo Lanese, Laredo Regional Office, 956.753.4053

**Respondent Contact:** Elizabeth Perez, 16672 US Highway 83 North, Laredo, Texas 78045

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	18-Mar-2013	<b>Screening</b>	28-Mar-2013	<b>EPA Due</b>	
	<b>PCW</b>	8-Apr-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Elizabeth Perez dba JD's Kwik Stop
<b>Reg. Ent. Ref. No.</b>	RN105486518
<b>Facility/Site Region</b>	16-Laredo
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40492	<b>No. of Violations</b>	4
<b>Docket No.</b>	2013-0704-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>	Abigail Lindsey
		<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>	\$5,900
---	-------------------	---------

### 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>	37.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,183
---------------------------	-------------------	--------------------------------	---------

Notes: Enhancement for one NOV with dissimilar violations, one order with a denial of liability, one order without a denial of liability, and reduction for a high performer classification.

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

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

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

Total EB Amounts: \$1,578  
 Approx. Cost of Compliance: \$6,800  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,083
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	2.8%	<b>Adjustment</b>	\$229
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance for Violation No. 2.

<b>Final Penalty Amount</b>	\$8,312
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,312
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$8,312
------------------------	---------

**Screening Date** 28-Mar-2013

**Docket No.** 2013-0704-PWS-E

**PCW**

**Respondent** Elizabeth Perez dba JD's Kwik Stop

*Policy Revision 2 (September 2002)*

**Case ID No.** 40492

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN105486518

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Abigail Lindsey

### 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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 judgments 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)** 47%

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

No

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

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with dissimilar violations, one order with a denial of liability, one order without a denial of liability, and reduction for a high performer classification.

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

Screening Date 28-Mar-2013

Docket No. 2013-0704-PWS-E

PCW

Respondent Elizabeth Perez dba JD's Kwik Stop

Policy Revision 2 (September 2002)

Case ID No. 40492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105486518

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.39(e)(1) and (h)(1), Tex. Health & Safety Code § 341.035(a), and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.c.

Violation Description

Failed to submit engineering plans and specifications to the Executive Director and receive written approval prior to beginning construction of a new public water supply system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 25

740 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

Twenty-Five monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1641-PWS-E, March 19, 2011, to the screening date, March 28, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,034

Violation Final Penalty Total \$3,522

This violation Final Assessed Penalty (adjusted for limits) \$3,522

## Economic Benefit Worksheet

**Respondent** Elizabeth Perez dba JD's Kwik Stop  
**Case ID No.** 40492  
**Reg. Ent. Reference No.** RN105486518  
**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)	\$5,000	19-Mar-2011	1-Mar-2014	2.95	\$49	\$984	\$1,034
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 have a professional engineer prepare and submit as-built plans and specifications for review and approval, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1641-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**

<b>Approx. Cost of Compliance</b>	\$5,000	<b>TOTAL</b>	\$1,034
-----------------------------------	---------	--------------	---------

Screening Date 28-Mar-2013

Docket No. 2013-0704-PWS-E

PCW

Respondent Elizabeth Perez dba JD's Kwik Stop

Policy Revision 2 (September 2002)

Case ID No. 40492

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105486518

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2)(A) and 290.110(b)(4), and Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.a.

Violation Description Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine residual throughout the distribution system at all times.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Failure to maintain a proper disinfectant residual could result in customers of the Facility being exposed to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 9 Number of violation days 740

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

Violation Base Penalty \$900

Nine quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1641-PWS-E, March 19, 2011, to the screening date, March 28, 2013.

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 \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$234

Violation Final Penalty Total \$1,268

This violation Final Assessed Penalty (adjusted for limits) \$1,268

## Economic Benefit Worksheet

**Respondent** Elizabeth Perez dba JD's Kwik Stop  
**Case ID No.** 40492  
**Reg. Ent. Reference No.** RN105486518  
**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)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	11-Jan-2013	1-Dec-2013	0.89	\$4	n/a	\$4

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that a disinfectant residual concentration of at least 0.2 mg/L free chlorine is maintained, calculated from the investigation date to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	19-Mar-2011	28-Mar-2013	2.95	\$29	\$200	\$229
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 The avoided cost includes the estimated amount for increased oversight and maintenance that could have prevented the violation, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1641-PWS-E to the date of screening.

Approx. Cost of Compliance \$300

**TOTAL** \$234

**Screening Date** 28-Mar-2013  
**Respondent** Elizabeth Perez dba JD's Kwik Stop  
**Case ID No.** 40492  
**Reg. Ent. Reference No.** RN105486518  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Abigail Lindsey

**Docket No.** 2013-0704-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 290.41(c)(3)(A) and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.c.

**Violation Description**

Failed to submit well completion data for review and approval prior to placing a public drinking water well into service.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Twenty-Five monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1641-PWS-E, March 19, 2011, to the screening date, March 28, 2013.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Elizabeth Perez dba JD's Kwik Stop  
**Case ID No.** 40492  
**Reg. Ent. Reference No.** RN105486518  
**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)	\$1,500	19-Mar-2011	1-Mar-2014	2.95	\$15	\$295	\$310
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 compile well completion data and submit it for approval, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-1641-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**

<b>Approx. Cost of Compliance</b>	\$1,500	<b>TOTAL</b>	\$310
-----------------------------------	---------	--------------	-------

**Screening Date** 28-Mar-2013  
**Respondent** Elizabeth Perez dba JD's Kwik Stop  
**Case ID No.** 40492  
**Reg. Ent. Reference No.** RN105486518  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Abigail Lindsey

**Docket No.** 2013-0704-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

**Violation Description**

Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92400035 for Fiscal Year 2013.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

**Adjustment**

**Violation Events**

Number of Violation Events

Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Elizabeth Perez dba JD's Kwik Stop  
**Case ID No.** 40492  
**Reg. Ent. Reference No.** RN105486518  
**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

n/a

### 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

n/a

Approx. Cost of Compliance \$0

**TOTAL** \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603338609, RN105486518, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN603338609, PEREZ, ELIZABETH      **Classification:** HIGH      **Rating:** 0.00

**Regulated Entity:** RN105486518, JD's KWIK STOP      **Classification:** HIGH      **Rating:** 0.00

**Complexity Points:** 2      **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 16672 US HIGHWAY 83 N LAREDO, TX 78045-3637, WEBB COUNTY

**TCEQ Region:** REGION 16 - LAREDO

**ID Number(s):** **PETROLEUM STORAGE TANK** REGISTRATION 79415  
**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 2400035

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

**Date Compliance History Report Prepared:** March 27, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 27, 2008 to March 27, 2013

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

**Name:** Abigail Lindsey

**Phone:** (512) 239-2576

### **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: 03/19/2011      ADMINORDER 2010-1641-PWS-E      (1660 Order-Agreed Order With Denial)**
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.39(e)(1)  
30 TAC Chapter 290, SubChapter D 290.39(h)(1)  
5A THSC Chapter 341, SubChapter A 341.035(a)(2)
  - Description:** Failed to submit plans and specifications prepared under the direction of a licensed professional engineer for the Facility and receive written approval of the plans and specifications prior to beginning construction of a new public water system.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)
  - Description:** Failed to operate the disinfection equipment to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine residual throughout the distribution system at all times.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(A)
  - Description:** Failed to submit well completion data to the Commission for review and approval prior to placing the well into service.
- 2 Effective Date: 03/16/2012      ADMINORDER 2011-0957-PWS-E      (Findings Order-Agreed Order Without Denial)**
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)
  - Description:** TCR PN Routine Monitoring Violation 03/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)
  - Description:** TCR Routine Monitoring Violation 04/2010 - Failure to collect any routine monitoring sample(s).
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
  - Description:** TCR PN Routine Monitoring Violation 04/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
  - Description:** TCR PN Routine Monitoring Violation 05/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).





**THIS PAGE INTENTIONALLY LEFT BLANK**

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ELIZABETH PEREZ D/B/A  
JD'S KWIK STOP;  
RN105486518**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2013-0704-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 Elizabeth Perez d/b/a JD's Kwik Stop ("Respondent") under the authority of TEX. WATER CODE ch. 5 and 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 she 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 operated a public water system located at 16672 United States Highway 83 North in Laredo, Webb County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 6 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 January 11, 2013, the TCEQ Compliance Monitoring Section documented that Respondent:
  - a. Failed to submit engineering plans and specifications to the Executive Director and receive written approval prior to beginning construction of a new public water supply system;
  - b. Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter free chlorine residual throughout the distribution system at all times; and
  - c. Failed to submit well completion data for review and approval prior to placing a public drinking water well into service.

3. During a record review conducted on March 28, 2013, the TCEQ Enforcement Division Drinking Water Section documented that Respondent failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92400035 for Fiscal Year 2013.
4. Respondent received notice of the violations alleged in Finding of Fact No. 2 on or about March 12, 2013. Respondent received notice of the violation alleged in Finding of Fact No. 3 on or about May 19, 2013.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, 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 submit engineering plans and specifications to the Executive Director and receive written approval prior to beginning construction of a new public water supply system, in violation of TEX. HEALTH & SAFETY CODE § 341.035(a); 30 TEX. ADMIN. CODE § 290.39(e)(1) and (h)(1); and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.c.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter free chlorine residual throughout the distribution system at all times, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE §§ 290.46(d)(2)(A) and 290.110(b)(4); and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.a.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit well completion data for review and approval prior to placing a public drinking water well into service, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A) and TCEQ Agreed Order Docket No. 2010-1641-PWS-E, Ordering Provision No. 2.c.
5. As evidenced by Finding of Fact No. 3, Respondent failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92400035 for Fiscal Year 2013, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
6. 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.
7. An administrative penalty in the amount of eight thousand three hundred twelve dollars (\$8,312.00) 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 eight hundred twenty-two dollars (\$822.00) of the administrative penalty. The remaining amount of seven thousand four hundred ninety dollars (\$7,490.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred fourteen dollars (\$214.00) 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. 7, 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: Elizabeth Perez d/b/a JD's Kwik Stop, Docket No. 2013-0704-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 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 a disinfectant residual concentration of at least 0.2 mg/L free chlorine is maintained throughout the distribution system, in accordance with 30 TEX. ADMIN. CODE §§ 290.46 and 290.110. This provision will be satisfied upon six consecutive months of weekly compliant monitoring and reporting; and
    - ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 92400035. The payment shall be sent with the notation "Elizabeth Perez dba JD's Kwik Stop, Financial Administration Account No. 92400035" to the address listed in Ordering Provision No. 1, above.
  - b. Within 180 days after the effective date of this Agreed Order, Respondent shall:
    - i. Submit well completion data for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.41. The well completion data shall be submitted to:

Utilities Technical Review Team  
Water Supply Division, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
    - ii. Submit accurate, up-to-date and detailed as-built plans and specifications for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.39. The plans shall be submitted to the address listed in Ordering Provision No. 2.b.i., above.
  - c. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification 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 certification 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:

Bob Patton, Jr., Section Manager  
Public Drinking Water Section, 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. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against 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.
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

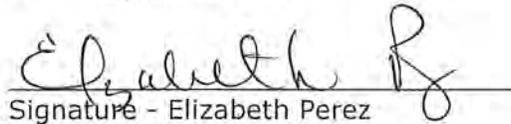
December 23, 2013  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order, 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 - Elizabeth Perez

9-20-13  
Date