

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1116-PWS-E **TCEQ ID:** RN101283109 **CASE NO.:** 30574
RESPONDENT NAME: Marie Braden dba Nana's Kitchen

Page 1 of 2

ORDER TYPE:

<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Nana's Kitchen, 106 Country Road 3014, Llano County

TYPE OF OPERATION: Restaurant with a public water supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Anita Keese, Enforcement Division, Enforcement Section I, MC R-15, (956) 430-6034; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Central Office Investigator: Ms. Sally Paramo, Water Supply Division, Public Drinking Water Section, MC 155, (512) 239-6675

Respondent: Ms. Marie Braden, Owner, Nana's Kitchen, P.O. Box 237, Tow, Texas 78672

Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT'S NAME: Marie Braden dba Nana's Kitchen
 DOCKET NO.: 2006-1116-PWS-E

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 1, 2006</p> <p>Dates of NOV(s)/NOE(s) Relating to this Case: March 25, 2003, July 27, December 21, 2005, May 26, June 27, 2006 (NOVs), July 7, 2006 (NOE)</p> <p>Background Facts: This was a routine record review. Three violations were documented.</p> <p>WATER</p> <p>1) Failed to conduct routine bacteriological monitoring of the public water supply, and failed to provide public notice for monitoring violations [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>2) Failed to collect at least four repeat samples following each total coliform-positive sample found on a routine sample, and failed to provide public notice for failure to collect and submit the appropriate number of repeat samples [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)].</p> <p>3) Failed to collect at least five distribution samples following a total coliform-positive sample, and failed to provide public notice for failure to collect and submit the appropriate number of distribution samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)].</p>	<p>Total Assessed: \$1,905</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$205 (remaining \$1,700 due in 10 monthly payments of \$170 each)</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: The Respondent has received five NOVs for the same or similar violations over the prior five year period.</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to, within 10 days after the effective date of this Agreed Order:</p> <p>a. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan; and</p> <p>b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply.</p> <p>2) The Order will require the Respondent to, within 30 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provisions 1.a. and 1.b.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	24-Jul-2006		
	PCW	01-Sep-2006	Screening	01-Aug-2006
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Marie Braden dba Nana's Kitchen
Reg. Ent. Ref. No.	RN101283109
Facility/Site Region	11-Austin
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	30574	No. of Violations	3
Docket No.	2006-1116-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Anita Keese
Multi-Media		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	\$1,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27% Enhancement	Subtotals 2, 3, & 7	\$405
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Notes: The respondent has received five Notices of Violation (NOVs) for the same or similar violations and one NOV for dissimilar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability requirement.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The respondent does not meet the good faith criteria.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,280	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,150	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,905
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$1,905
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,905
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral offered because a findings order will be issued.

PAYABLE PENALTY	\$1,905
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Screening Date 01-Aug-2006

Docket No. 2006-1116-PWS-E

PCW

Respondent Marie Braden dba Nana's Kitchen

Policy Revision 2 (September 2002)

Case ID No. 30574

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101283109

Media [Statute] Public Water Supply

Enf. Coordinator Anita Keese

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of..	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	1	2%
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 (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</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%
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%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 27%

>> 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

The respondent has received five Notices of Violation (NOVs) for the same or similar violations and one NOV for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date	01-Aug-2006	Docket No.	2006-1116-PWS-E	PCW
Respondent	Marie Braden dba Nana's Kitchen		Policy Revision 2 (September 2002)	
Case ID No.	30574	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101283109			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Anita Keese			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 341.033(d)			
Violation Description	The respondent failed to conduct routine bacteriological monitoring of the public water supply during the month of November 2005, and failed to provide public notice for monitoring violations during the month of November 2005.			
Base Penalty	\$1,000			

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes: As a result of this violation, customers of the water supply could be exposed to contaminants which would exceed levels that are protective of human health.

Adjustment: -\$750

Base Penalty Subtotal: \$250

Violation Events

Number of Violation Events: 1

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty: \$250

One monthly event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$50	Violation Final Penalty Total: \$318
This violation Final Assessed Penalty (adjusted for limits): \$318	

Economic Benefit Worksheet

Respondent: Marie Braden dba Nana's Kitchen
 Case ID No: 30574
 Reg. Ent. Reference No: RN101283109
 Media [Statute]: 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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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs							
ANNUALIZE [4] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	01-Nov-2005	30-Nov-2005	0.0	\$0	\$50	\$50
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs Estimated cost to collect and submit water samples for bacteriological analysis and provide public notice of sampling deficiencies for the month in which no monitoring occurred.							

Approx. Cost of Compliance \$50

TOTAL \$50

Screening Date	01-Aug-2006	Docket No.	2006-1116-PWS-E	PCW
Respondent	Marie Braden dba Nana's Kitchen		Policy Revision 2 (September 2002)	
Case ID No.	30574	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101283109			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Anita Keese			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)			
Secondary Rule Cite(s)				
Violation Description	The respondent failed to collect at least four repeat samples following each total coliform-positive sample found on a routine sample during the months of June 2005 and April and May 2006, and failed to provide public notice for failure to collect and submit the appropriate number of repeat samples during the months of June 2005 and April and May 2006.			
Base Penalty	\$1,000			

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	X			25%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: As a result of this violation, customers of the water supply could be exposed to contaminants which would exceed levels that are protective of human health.

Adjustment: -\$750

Base Penalty Subtotal: \$250

Violation Events

Number of Violation Events: 3

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty: \$750

Three monthly events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$630	Violation Final Penalty Total: \$953
This violation Final Assessed Penalty (adjusted for limits): \$953	

Economic Benefit Worksheet

Respondent: Marie Braden dba Nana's Kitchen
 Case ID No. 30574
 Reg. Ent. Reference No. RN101283109
 Media [Statute] 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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$600	01-Jun-2005	31-May-2006	1.0	\$30	\$600	\$630
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs Estimated cost to collect and submit water samples for bacteriological analysis and provide public notice of sampling deficiencies calculated for the months in which repeat samples were not collected.							

Approx. Cost of Compliance \$600

TOTAL \$630

Screening Date	01-Aug-2006	Docket No.	2006-1116-PWS-E	PCW
Respondent	Marie Braden dba Nana's Kitchen		Policy Revision 2 (September 2002)	
Case ID No.	30574	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101283109			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Anita Keese			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(B)			
Secondary Rule Cite(s)				
Violation Description	The respondent failed to collect at least five distribution samples the month following a total coliform-positive result during the months of January 2003 and May 2006, and failed to provide public notice for failure to collect and submit the appropriate number of distribution samples during the months of January 2003 and May 2006.			
Base Penalty	\$1,000			

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

		Harm			
Release	Major	Moderate	Minor		
Actual					
Potential	x				Percent <input type="text" value="25%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent <input type="text"/>
Matrix Notes	As a result of this violation, customers of the water supply could be exposed to contaminants which would exceed levels that are protective of human health.				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty

Two monthly events are recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$600"/>	Violation Final Penalty Total <input type="text" value="\$635"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$635"/>	

Economic Benefit Worksheet

Respondent: Marie Braden dba Nana's Kitchen
 Case ID No. 30574
 Reg. Ent. Reference No. RN101283109
 Media [Statute]: 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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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	01-Jan-2003	31-May-2006	4.0	\$100	\$500	\$600
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to collect and submit water samples for bacteriological analysis and provide public notice of sampling deficiencies calculated for the months in which the appropriate sampling was not performed.

Approx. Cost of Compliance **\$500**

TOTAL \$600

Compliance History

Customer/Respondent/Owner-Operator:	CN603059791 BRADEN, MARIE	Classification:	Rating:
Regulated Entity:	RN101283109 NANAS KITCHEN	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1500113
Location:	106 CR 3014, LLANO COUNTY		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	August 29, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 29, 2001 to August 29, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Anita Keese	Phone:	(956) 430-6034

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 of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>BRADEN, MARIE</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>RILEY, AUDREY</u> |
| 5. When did the change(s) in ownership occur? | <u>OCTOBER 1, 1002</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, 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.)
- | | | | | |
|-----|----|------------|----------|--|
| N/A | 1 | 10/03/2005 | (486665) | |
| | 2 | 12/21/2005 | (486715) | |
| | 3 | 10/31/2005 | (486694) | |
| | 4 | 05/26/2006 | (486719) | |
| | 5 | 07/17/2006 | (486985) | |
| | 6 | 06/27/2006 | (486725) | |
| | 7 | 03/25/2003 | (486202) | |
| | 8 | 12/01/2005 | (486703) | |
| | 9 | 07/27/2005 | (484171) | |
| | 10 | 10/14/2002 | (12647) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 07/27/2005 | (484171) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii) | | |
| Description: | Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of June 2005. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B) | | |
| Description: | Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of June 2005. | | |
| Date: | 10/15/2002 | (12647) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)[G] | | |
| Description: | Failure to keep operating records. | | |
| Self Report? | NO | | Classification: Moderate |

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to maintain the intruder resistant fence.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to meet the working pressure requirement of 35 psi.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(A)(ii)
Description: Failure to meet the 220 gallon pressure tank capacity requirement.
Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
Description: Failure to maintain the ground storage tank in a watertight condition.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
Description: Failure to have a vent on the storage tank.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to have an overflow on the storage tank.
Date: 12/21/2005 (486715)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to conduct routine bacteriological of the public water supply for the month of November 2004.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice for monitoring violations during the month of November 2005.
Date: 06/27/2006 (486725)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of May 2006.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of May 2006.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of May 2006.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of distribution samples during the month of May 2006.
Date: 05/26/2006 (486719)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of April 2006.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of April 2006.
Date: 03/25/2003 (486202)
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of January 2003.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of distribution samples during the month of January 2003.

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
MARIE BRADEN DBA NANA'S
KITCHEN
RN101283109**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2006-1116-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 Marie Braden dba Nana's Kitchen ("Ms. Braden") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Ms. Braden presented this agreement to the Commission.

Ms. Braden 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, Ms. Braden 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 Ms. Braden.

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

I. FINDINGS OF FACT

1. Ms. Braden owns a restaurant with a public water supply at 106 County Road 3014, Llano County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. During a record review on June 1, 2006, TCEQ staff documented that Ms. Braden did not conduct routine bacteriological monitoring of the public water supply during the month of November 2005, and did not provide public notice for monitoring violations during the month of November 2005.

STATE OF TEXAS, COUNTY OF []



Know all men by these presents, that [] of the County of [] State of Texas, for and in consideration of the sum of [] Dollars, to [] in hand paid by [] the receipt of which is hereby acknowledged, have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said [] of the County of [] State of Texas, all that certain []

WITNESSETH my hand and seal of office this [] day of [] A.D. 19[]

Notary Public in and for the State of Texas, My Commission Expires []

Notary Public in and for the State of Texas, My Commission Expires []

Notary Public in and for the State of Texas, My Commission Expires []

Notary Public in and for the State of Texas

Notary Public in and for the State of Texas, My Commission Expires []

Notary Public in and for the State of Texas, My Commission Expires []

3. During a record review on June 1, 2006, TCEQ staff documented that Ms. Braden did not collect at least four repeat samples following each total coliform-positive sample found on a routine sample during the months of June 2005 and April and May 2006, and did not provide public notice for failure to collect and submit the appropriate number of repeat samples during the months of June 2005 and April and May 2006.
4. During a record review on June 1, 2006, TCEQ staff documented that Ms. Braden did not collect at least five distribution samples the month following a total coliform-positive result during the months of January 2003 and May 2006, and did not provide public notice for failure to collect and submit the appropriate number of distribution samples during the months of January 2003 and May 2006.
5. Ms. Braden received notice of the violations in letters dated March 25, 2003, July 27, December 21, 2005, May 26, June 27 and July 7, 2006.

II. CONCLUSIONS OF LAW

1. Ms. Braden 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, Ms. Braden failed to conduct routine bacteriological monitoring of the public water supply, and failed to provide public notice for monitoring violations, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3, Ms. Braden failed to collect at least four repeat samples following each total coliform-positive sample found on a routine sample, and failed to provide public notice for failure to collect and submit the appropriate number of repeat samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B).
4. As evidenced by Finding of Fact No. 4, Ms. Braden failed to collect at least five distribution samples following a total coliform-positive sample, and failed to provide public notice for failure to collect and submit the appropriate number of distribution samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Ms. Braden 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.
6. An administrative penalty in the amount of One Thousand Nine Hundred Five Dollars (\$1,905) 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). Ms. Braden has paid Two Hundred Five Dollars (\$205) of the administrative penalty. The remaining amount of One Thousand Seven Hundred Dollars (\$1,700) of the administrative penalty shall be payable in ten monthly payments of One Hundred Seventy Dollars (\$170) each. The next monthly payment shall be paid within 30 days after

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The text also mentions that regular audits are necessary to identify any discrepancies or errors in the accounting process.

Furthermore, it is noted that the accounting system should be designed to be user-friendly and efficient. This helps in reducing the time and effort required to process transactions and generate reports.

3.1.2. Accuracy and Reliability

The second part of the document focuses on the accuracy and reliability of the financial data. It states that the accounting system should be able to handle complex transactions and provide accurate results. This is achieved through the use of standardized accounting principles and practices.

It also highlights the importance of having a robust internal control system in place. This system should be designed to prevent and detect errors and fraud. Regular reviews and audits are essential to ensure the integrity of the financial statements.

The document further discusses the role of the accounting system in providing timely and relevant information to management. This information is crucial for making informed decisions and planning for the future. The system should be able to generate various reports and dashboards to facilitate this process.

In addition, the text mentions that the accounting system should be secure and protected against unauthorized access. This is to ensure the confidentiality and integrity of the financial data. Regular security updates and audits are necessary to maintain a high level of security.

The document also touches upon the importance of having a clear and concise set of accounting policies and procedures. These policies should be communicated to all employees and followed consistently. This helps in maintaining uniformity and accuracy in the accounting records.

Finally, the text concludes by stating that the accounting system is a vital part of any organization's financial management. It provides a clear and accurate picture of the organization's financial performance and position. By following the guidelines outlined in this document, organizations can ensure the accuracy and reliability of their accounting records.

The document is intended for use by all employees involved in the accounting process. It is a living document and should be reviewed and updated regularly to reflect changes in the organization's accounting practices and requirements.

effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Ms. Braden fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of Ms. Braden to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Braden to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. Ms. Braden is assessed an administrative penalty in the amount of One Thousand Nine Hundred Five Dollars (\$1,905), as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Ms. Braden'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: Marie Braden dba Nana's Kitchen, Docket No. 2006-1116-PWS-E" to:

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

2. Ms. Braden shall, within 10 days after the effective date of this Agreed Order;
 - a. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan, in as required by 30 TEX. ADMIN. CODE § 290.109; and
 - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, in accordance with 30 TEX. ADMIN. CODE § 290.122.
3. Ms. Braden shall, within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2 a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

...the ... of ...

"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."

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
Austin Regional Office
Texas Commission on Environmental Quality
1921 Cedar Bend Dr., Ste.150
Austin, Texas 78758-5336

4. The provisions of this Agreed Order shall apply to and be binding upon Ms. Braden. Ms. Braden 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 Ms. Braden shall be made in writing to the Executive Director. Extensions are not effective until Ms. Braden receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Ms. Braden if the Executive Director determines that Ms. Braden has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Braden 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.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the success of any business or organization. The text also mentions the need for regular audits and reviews to ensure that all data is up-to-date and correct.

In addition, the document highlights the role of technology in streamlining record-keeping processes. It suggests that using specialized software can help reduce errors and save time. The text also notes that training staff on how to use these tools effectively is crucial for maximizing their benefits.

Overall, the document provides a comprehensive overview of the challenges and solutions related to record-keeping. It offers practical advice and insights that can be applied to various industries and organizations.

The second part of the document focuses on the legal aspects of record-keeping. It discusses the requirements for retaining records and the consequences of non-compliance. The text also mentions the importance of ensuring that records are stored securely and protected from unauthorized access.

Furthermore, the document addresses the issue of data privacy and the protection of sensitive information. It emphasizes the need for organizations to implement robust security measures to prevent data breaches and ensure that all records are handled in accordance with applicable laws and regulations.

In conclusion, the document underscores the significance of record-keeping as a fundamental business practice. It encourages organizations to adopt a proactive approach to managing their records, ensuring that they are accurate, secure, and compliant with all relevant legal requirements.

The document also provides a list of resources and references for further information on record-keeping practices and legal requirements. It includes links to relevant government websites and industry publications.

Finally, the document offers a summary of the key points discussed throughout the text. It reiterates the importance of record-keeping and the steps that organizations should take to ensure that their records are managed effectively and in compliance with all applicable laws and regulations.

9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. 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



For the Executive Director

2/10/07

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Marie Braden dba Nana's Kitchen. I am authorized to agree to the attached Agreed Order on behalf of Marie Braden dba Nana's Kitchen, 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, Marie Braden dba Nana's Kitchen 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Marie Braden
Signature

NOV 1, 2006
Date

MARIE BRADEN
Name (printed or typed)
Authorized Representative
Marie Braden dba Nana's Kitchen

OWNER
Title

10/10/10

[Handwritten signature]

Dear Sir,

I am writing to you regarding the matter of the...

I have reviewed the documents and find that...

The information provided is consistent with...

I am sure that you will find this information...

Yours faithfully,