

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0946-PWS-E **TCEQ ID:** RN102315736 **CASE NO.:** 33802
RESPONDENT NAME: A.K. Mittal dba Wes Texas Family Dining

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Wes Texas Family Dining, 1207 Farm-to-Market Road 1585, Lubbock, Lubbock County</p> <p>TYPE OF OPERATION: Restaurant with public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 22, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. A.K. Mittal, Owner & Operator, Wes Texas Family Dining, 5811 87th Street, Lubbock, Texas 79424 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 26 and 27, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 22, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Three violations were documented.</p> <p>WATER</p> <p>1) Failed to immediately provide the Commission with written notification that an existing public water supply system has been reactivated [30 TEX. ADMIN. CODE § 290.39(m)].</p> <p>2) Failed to provide a screened casing vent on the Facility's well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].</p> <p>3) Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times [30 TEX. ADMIN. CODE §§ 290.46(d)(2) and 290.110(b)(2), and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$249</p> <p>Total Deferred: \$49 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$200</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <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>Corrective Actions Taken</p> <p>1) The Executive Director recognizes that Mr. Mittal has implemented the following corrective measures at the Facility:</p> <p>a. On April 27, 2007:</p> <p>i. Provided the Commission with written notification that public water supply system at the restaurant had been reactivated;</p> <p>ii. Began maintaining a minimum disinfectant residual of 0.2 mg/L free chlorine throughout the distribution system at all times; and</p> <p>b. On May 9, 2007, provided a screened casing vent on the Facility's well.</p>

Additional ID No(s): PWS ID No. 1520180



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	21-May-2007	Screening	12-Jun-2007	EPA Due	
	PCW	13-Jun-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	A.K. Mittal dba Wes Texas Family Dining		
Reg. Ent. Ref. No.	RN102315736		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33802	No. of Violations	3
Docket No.	2007-0946-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	EnforcementTeam 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 8% Enhancement Subtotals 2, 3, & 7

Notes: The compliance history enhancement is due to four prior Notices of Violation (NOVs) containing violations that are dissimilar to the violations in the current enforcement action.

Culpability No 0% Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5

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

Notes: The Respondent achieved compliance with all violations as of May 9, 2007.

0% Enhancement* Subtotal 6
 *Capped at the Total EB \$ Amount

Total EB Amounts	\$201
Approx. Cost of Compliance	\$450

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 12-Jun-2007

Docket No. 2007-0946-PWS-E

PCW

Respondent A.K. Mittal dba Wes Texas Family Dining

Policy Revision 2 (September 2002)

Case ID No. 33802

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102315736

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

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>)	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 8%

>> 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 compliance history enhancement is due to four prior Notices of Violation (NOVs) containing violations that are dissimilar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 8%

Screening Date 12-Jun-2007	Docket No. 2007-0946-PWS-E	PCW									
Respondent A.K. Mittal dba Wes Texas Family Dining	<i>Policy Revision 2 (September 2002)</i>										
Case ID No. 33802	<i>PCW Revision May 25, 2007</i>										
Reg. Ent. Reference No. RN102315736											
Media [Statute] Public Water Supply											
Enf. Coordinator Rebecca Clausewitz											
Violation Number <input type="text" value="1"/>											
Rule Cite(s)	30 Tex. Admin. Code § 290.39(m)										
Violation Description	Failed to immediately provide the Commission with written notification that an existing public water supply system has been reactivated. Specifically, the public water supply system was reactivated on December 31, 2006 when the restaurant was re-opened for business, but the Commission was not provided with written notification of the reactivation until April 27, 2007.										
Base Penalty		<input type="text" value="\$1,000"/>									
>> Environmental, Property and Human Health Matrix											
Harm											
Release	Major	Moderate	Minor								
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td style="width: 50px;"><input type="text"/></td> <td style="width: 50px;"><input type="text"/></td> <td style="width: 50px;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>			Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>								
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>								
			Percent <input type="text" value="0%"/>								
>> Programmatic Matrix											
Falsification											
Major			Moderate	Minor							
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50px;"><input type="text"/></td> <td style="width: 50px; text-align: center;">x</td> <td style="width: 50px;"><input type="text"/></td> <td style="width: 50px;"><input type="text"/></td> </tr> </table>			<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>				
<input type="text"/>	x	<input type="text"/>	<input type="text"/>								
Matrix Notes	100% of the rule requirement was not met.										
			Adjustment <input type="text" value="\$900"/>								
			<input type="text" value="\$100"/>								
Violation Events											
Number of Violation Events <input type="text" value="1"/>		<input type="text" value="1"/> Number of violation days									
<i>mark only one with an x</i>	daily	<input type="text"/>									
	monthly	<input type="text"/>									
	quarterly	<input type="text"/>									
	semiannual	<input type="text"/>									
	annual	<input type="text"/>									
	single event	<input type="text" value="x"/>									
			Violation Base Penalty <input type="text" value="\$100"/>								
One single event is recommended.											
Economic Benefit (EB) for this violation		Statutory Limit Test									
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$83"/>									
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$83"/>											

Economic Benefit Worksheet

Respondent A.K. Mittal dba Wes Texas Family Dining
Case ID No. 33802
Reg. Ent. Reference No. RN102315736
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	26-Apr-2007	27-Apr-2007	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 The delayed cost includes the amount to provide the Commission with written notification that the public water supply system has been reactivated, 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				0.0	\$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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs There are no avoided costs associated with this violation.

Approx. Cost of Compliance	\$50	TOTAL	\$0
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Screening Date 12-Jun-2007

Docket No. 2007-0946-PWS-E

PCW

Respondent A.K. Mittal dba Wes Texas Family Dining

Policy Revision 2 (September 2002)

Case ID No. 33802

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102315736

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Rule Cite(s)

Violation Description

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 checked="" type="checkbox"/>	<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"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

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 A.K. Mittal dba Wes Texas Family Dining
Case ID No. 33802
Reg. Ent. Reference No. RN102315736
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
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No commas or \$

Delayed Costs

Equipment	\$200	26-Apr-2007	9-May-2007	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: The delayed costs include the amount to install a screened well casing vent, 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				0.0	\$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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$200

TOTAL \$0

Screening Date 12-Jun-2007 **Docket No.** 2007-0946-PWS-E **PCW**
Respondent A.K. Mittal dba Wes Texas Family Dining *Policy Revision 2 (September 2002)*
Case ID No. 33802 *PCW Revision May 25, 2007*
Reg. Ent. Reference No. RN102315736
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz
Violation Number
Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(d)(2) and 290.110(b)(2) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times. Specifically, the disinfectant residual was measured to be 0.05 mg/L free chlorine at the restaurant's kitchen sink on April 26, 2007.
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"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes: Without proper disinfection of the water supply, customers of the restaurant could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

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 A.K. Mittal dba Wes Texas Family Dining
Case ID No. 33802
Reg. Ent. Reference No. RN102315736
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
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 There are no delayed costs associated with this violation.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$200	26-Apr-2007	27-Apr-2007	0.0	\$0	\$200	\$200
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs The avoided costs include the amount of additional oversight and maintenance that could have prevented the low chlorine residuals from occurring, calculated for the date that the chlorine residual was below the 0.2 mg/L minimum.

Approx. Cost of Compliance	\$200	TOTAL	\$200
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Compliance History

Customer/Respondent/Owner-Operator:	CN602523235 MITTAL, A K	Classification:	Rating:
Regulated Entity:	RN102315736 WES TEXAS FAMILY DINING	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION:	1520180
Location:	1207 FM 1585, LUBBOCK, TX, 79423		
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	June 13, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 12, 2002 to June 12, 2007		

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

Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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.)
- | | | |
|---|------------|----------|
| 1 | 04/15/2003 | (29493) |
| 2 | 10/15/2003 | (392891) |
| 3 | 01/28/2004 | (395829) |
| 4 | 07/02/2004 | (395832) |
| 5 | 08/27/2004 | (395837) |
| 6 | 01/07/2005 | (343123) |
| 7 | 02/03/2005 | (347738) |
| 8 | 07/20/2005 | (398772) |
| 9 | 05/18/2007 | (558961) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|---|------------------|---|--------------------------|
| 1 | Date: 10/15/2003 | (392891) | |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) | |
| | Description: | FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 08/2003. | |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B) | |
| | Description: | FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 08/2003. | |

2 Date: 01/28/2004 (395829)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 12/2003.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 12/2003.

3 Date: 08/27/2004 (395837)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT ANY ROUTINE MONITORING SAMPLES IN 07/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING ANY ROUTINE MONITORING SAMPLES IN 07/2004.

4 Date: 12/10/2004 (343123)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
Description: Failure to properly secure the well house.

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
A.K. MITTAL DBA WES TEXAS
FAMILY DINING
RN102315736

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

AGREED ORDER
DOCKET NO. 2007-0946-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding A.K. Mittal dba Wes Texas Family Dining ("Mr. Mittal") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Mittal appear before the Commission and together stipulate that:

1. Mr. Mittal owns and operates a restaurant with public water supply at 1207 Farm-to-Market Road 1585 in Lubbock, Lubbock 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. The Commission and Mr. Mittal agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Mittal is subject to the Commission's jurisdiction.
3. Mr. Mittal received notice of the violations alleged in Section II ("Allegations") on or about May 27, 2007.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Mittal of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Hundred Forty-Nine Dollars (\$249) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Mittal has paid Two Hundred Dollars (\$200) of the administrative penalty and Forty-Nine Dollars (\$49) is deferred contingent upon Mr. Mittal's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Mittal fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Mr. Mittal to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and Mr. Mittal have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Mr. Mittal has implemented the following corrective measures at the Facility:
 - a. On April 27, 2007:
 - i. Provided the Commission with written notification that public water supply system at the restaurant had been reactivated;
 - ii. Began maintaining a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times; and
 - b. On May 9, 2007, provided a screened casing vent on the Facility's well.
9. 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 Mr. Mittal has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Mittal is alleged to have:

1. Failed to immediately provide the Commission with written notification that an existing public water supply system has been reactivated, in violation of 30 TEX. ADMIN. CODE § 290.39(m), as documented during an investigation conducted on April 26 and 27, 2007.
2. Failed to provide a screened casing vent on the Facility's well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on April 26 and 27, 2007.
3. Failed to maintain a minimum disinfectant residual of 0.2 milligrams per liter ("mg/L") free chlorine throughout the distribution system at all times, in violation of 30 TEX. ADMIN. CODE §§ 290.46(d)(2) and 290.110(b)(2), and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on April 26 and 27, 2007.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The records should be kept up-to-date and should be easily accessible to all relevant parties.

2. The second part of the document outlines the various methods used to collect and analyze data. These methods include interviews, surveys, and focus groups. Each method has its own strengths and weaknesses, and it is important to choose the most appropriate method for the specific research objectives. The data collected should be analyzed carefully to identify any trends or patterns.

3. The third part of the document discusses the results of the research. The findings indicate that there is a strong correlation between the variables studied. This suggests that the factors being investigated are closely related and may be influencing each other. The results are supported by the data collected and are consistent with the theoretical framework.

4. The final part of the document provides conclusions and recommendations. Based on the findings, it is recommended that further research be conducted to explore the relationship between the variables in more detail. This could involve conducting larger-scale studies or using different methods to collect data. The recommendations are based on the current findings and are intended to guide future research in this area.

III. DENIALS

Mr. Mittal generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Mittal pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Mittal's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: A.K. Mittal dba Wes Texas Family Dining, Docket No. 2007-0946-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. The provisions of this Agreed Order shall apply to and be binding upon Mr. Mittal. Mr. Mittal 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Mittal 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Mittal, or three days after the date on which the Commission mails notice of the Order to Mr. Mittal, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan
For the Executive Director

10/27/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

A.K. Mittal
Signature

8/8/07
Date

A.K. MITTAL
Name (Printed or typed)
Authorized Representative of
A.K. Mittal dba Wes Texas Family Dining

Owner
Title

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

*Attached a check for \$200.00 pd in full
Ch #2083 dated 8/8/07.*

