

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1079-PWS-E TCEQ ID: RN104966049 CASE NO.: 36115

RESPONDENT NAME: Chicken House Flea Market, Inc.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: Chicken House Flea Market, located at Highway 377, two and one half miles west of Stephenville, Erath County</p> <p>TYPE OF OPERATION: Flea market</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 November 17, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Norman Deisher, President, Chicken House Flea Market, Inc., 107 Byron Nelson Street, Stephenville, Texas 76401 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 checked="" 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 1 and July 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 30, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation and a record review.</p> <p>WATER</p> <p>1) Failure to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>2) Failure to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90720049 for fiscal year 2007 [30 TEX. ADMIN. CODE § 290.51(a)(3)].</p>	<p>Total Assessed: \$2,056</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 to General Revenue: \$2,056</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>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent began conducting routine distribution water samples for coliform analysis at the Facility on January 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90720049; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 90720049



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	9-Jun-2008			
	PCW	11-Aug-2008	Screening	24-Jun-2008	EPA Due 1-Sep-2008

RESPONDENT/FACILITY INFORMATION	
Respondent	Chicken House Flea Market, Inc.
Reg. Ent. Ref. No.	RN104966049
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36115	No. of Violations	2
Docket No.	2008-1079-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		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)	<i>Subtotal 1</i>	\$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	30.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$450
Notes	Enhancement is due to six prior Notices of Violation containing violations that are the same or similar as those in current enforcement action.		

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
Notes	The Respondent does not meet the culpability criteria.			

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$150
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$256	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$240		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$1,800
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OTHER FACTORS AS JUSTICE MAY REQUIRE	14.2%	<i>Adjustment</i>	\$256
Notes	Reduces or enhances the Final Subtotal by the indicated percentage.		
	Enhancement is recommended for the recovery of avoided costs.		

Final Penalty Amount \$2,056

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$2,056
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DEFERRAL	0.0% Reduction	<i>Adjustment</i>	\$0
Notes	Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
	No deferral is recommended for Findings Orders.		

PAYABLE PENALTY	\$2,056
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Screening Date 24-Jun-2008

Docket No. 2008-1079-PWS-E

PCW

Respondent Chicken House Flea Market, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36115

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN104966049

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

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>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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) 30%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement is due to six prior Notices of Violation containing violations that are the same or similar as those in current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 24-Jun-2008	Docket No. 2008-1079-PWS-E	PCW		
Respondent Chicken House Flea Market, Inc.	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36115	<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN104966049				
Media [Statute] Public Water Supply				
Enf. Coordinator Amanda Henry				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)"/>			
Violation Description	<input type="text" value="Failed to collect routine distribution water samples for coliform analysis during the months of July through December 2007."/>			
Base Penalty		<input type="text" value="\$1,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Failure to perform bacteriological monitoring may expose the public to a significant amount of undetected contaminants that exceed levels that are protective of human health."/>			
		Adjustment	<input type="text" value="\$750"/>	
		<input type="text" value="\$250"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="6"/>	<input type="text" value="184"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		Violation Base Penalty	<input type="text" value="\$1,500"/>	
<input type="text" value="Six monthly events are recommended."/>				
Good Faith Efforts to Comply		<input type="text" value="10.0%"/>	Reduction	<input type="text" value="\$150"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)		
Notes	<input type="text" value="The Respondent achieved compliance as of January 2008."/>			
		Violation Subtotal	<input type="text" value="\$1,350"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$256"/>	Violation Final Penalty Total	<input type="text" value="\$2,056"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$2,056"/>

Economic Benefit Worksheet

Respondent: Chicken House Flea Market, Inc.
Case ID No.: 36115
Reg. Ent. Reference No.: RN104966049
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
<small>No commas or \$</small>							

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$240	31-Jul-2007	31-Dec-2007	1.34	\$16	\$240	\$256
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount to conduct monthly coliform sampling (\$40 per sample), calculated for the months when the violation occurred.

Approx. Cost of Compliance

\$240

TOTAL

\$256

Screening Date 24-Jun-2008	Docket No. 2008-1079-PWS-E	PCW
Respondent Chicken House Flea Market, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36115	<i>PCW Revision June 12, 2008</i>	
Reg. Ent. Reference No. RN104966049		
Media [Statute] Public Water Supply		
Enf. Coordinator Amanda Henry		

Violation Number	2
Rule Cite(s)	30 Tex. Admin. Code § 290.51(a)(3)
Violation Description	Failed to pay all annual and late Public Health Services ("PHS") fees for TCEQ Financial Administration Account No. 90720049 for Fiscal Year 2007.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	
	Potential	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	
					Percent <input style="width:50px" type="text" value="0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	
					Percent <input style="width:50px" type="text" value="0%"/>

Matrix Notes	
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Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input style="width:50px" type="text"/>
	monthly	<input style="width:50px" type="text"/>
	quarterly	<input style="width:50px" type="text"/>
	semiannual	<input style="width:50px" type="text"/>
	annual	<input style="width:50px" type="text"/>
	single event	<input style="width:50px" 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 **0.0% Reduction**

		Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>
Ordinary	<input style="width:50px" type="text"/>	<input style="width:50px" type="text"/>	
N/A	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 Chicken House Flea Market, Inc.
Case ID No. 36115
Reg. Ent. Reference No. RN104966049
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Not applicable.

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

Not applicable.

Approx. Cost of Compliance \$0

TOTAL \$0

COMPLIANCE HISTORY

Customer/Respondent Owner-Operator:	CN603201823	Chicken House Flea Market, Inc.	Classification:	Rating:
Regulated Entity:	RN104966049	CHICKEN HOUSE FLEA MARKET	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION			0720049
Location:	HWY 377, 2.5 MILES WEST OF STEPHENVILLE, TX, ERATH COUNTY, TX			
TCEQ Region:	REGION 04 – DFW METROPLEX			
Date Compliance History Prepared:	June 24, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 24, 2003 to June 24, 2008			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
 Name: Amanda Henry Phone: (713) 767-3672

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? | Yes |
| 3. If Yes, who is the current owner? | Chicken House Flea Market, Inc. |
| 4. If Yes, who was/were the prior owner(s)? | Norman Deisher |
| 5. When did the change(s) in ownership occur? | June 25, 2007 |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

1	02/15/2007	(540355)
2	07/06/2007	(565546)
3	07/15/2007	(645361)
4	08/15/2007	(645682)
5	10/01/2007	(645991)
6	11/01/2007	(646137)
7	11/01/2007	(652853)

8	04/10/2008	(670374)
9	04/25/2008	(680960)
10	06/03/2008	(646371)

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

Date: 09/10/2007
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect and submit monthly water samples for bacteriological analysis in 07/2007.

Date: 11/01/2007
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect and submit monthly water samples for bacteriological analysis in 08/2007

Date: 12/20/2007
 NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.033(d)
 Description: Failure to collect and submit monthly water samples for bacteriological analysis in 09/2007.

Self Report? NO Classification: Moderate

Date: 01/31/2008
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect and submit monthly water samples for bacteriological analysis in 10/2007.
 Self Report? NO Classification: Moderate

Date: 02/14/2008
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect and submit monthly water samples for bacteriological analysis in 11/2007.
 Self Report? NO Classification: Moderate

Date: 02/21/2008
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: Failure to collect and submit monthly water samples for bacteriological analysis in 12/2007.

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

2. During an investigation conducted on April 1, 2008, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis during the months of July through December 2007.
3. During a record review conducted on July 8, 2008, TCEQ staff documented that the Respondent did not pay all annual and late Public Health Service ("PHS") fees for TCEQ Financial Administration Account No. 90720049 for fiscal year 2007.
4. The Respondent received notice of the violations on June 3, 2008.
5. The Executive Director recognizes that the Respondent began conducting routine distribution water samples for coliform analysis at the Facility on January 2008.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 90720049 for fiscal year 2007, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Two Thousand Fifty-Six Dollars (\$2,056) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand Fifty-Six Dollar (\$2,056) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Fifty-Six Dollars (\$2,056) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in

any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Chicken House Flea Market, Inc., Docket No. 2008-1079-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 Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 90720049. The payments shall be sent with the notation "RE: Chicken House Flea Market, Inc., FA Account 90720049" 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

- b. Within 45 days after the effective date of this Agreed Order, Submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdler
For the Executive Director

10/16/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Chicken House Flea Market, Inc. I am authorized to agree to the attached Agreed Order on behalf of Chicken House Flea Market, Inc., 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, Chicken House Flea Market, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Norman Deisher
Signature

8-25-08
Date

NORMAN Deisher
Name (Printed or typed)
Authorized Representative of
Chicken House Flea Market, Inc.

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.

