

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1391-PWS-E **TCEQ ID:** RN104711163 **CASE NO.:** 36419

**RESPONDENT NAME:** Boyd R. Freitag dba Friday's General Store

|   |   |  |
|---|---|--|
| <b>ORDER TYPE:</b>  |   |  |
| <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                    |  |
| <b>CASE TYPE:</b>   |   |  |
| <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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Friday's General Store, 7678 East US Highway 290 East, Blanco County</p> <p><b>TYPE OF OPERATION:</b> Convenience store and restaurant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 5, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Boyd R. Freitag, Owner, Friday's General Store, 7678 East US Highway 290, Suite A, Johnson City, Texas 78636<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
|---|--|---|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 10, 2008</p> <p><b>Date of NOE Relating to this Case:</b> July 24, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>Failure to obtain Commission approval of the rainwater collection system and the groundwater source prior to commencing construction and utilizing the sources as a public water system [30 TEX. ADMIN. CODE §§ 290.39(c) and (h)(1), 290.46(a), and TEX. HEALTH &amp; SAFETY CODE § 341.035(a)].</p> | <p><b>Total Assessed:</b> \$200</p> <p><b>Total Deferred:</b> \$40<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$160</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent ceased utilizing the rainwater collection system on or about August 1, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a) Within 90 days after the effective date of this Agreed Order:</p> <p>i. Submit as-built plans and specifications for the groundwater source. The plans and specifications shall be prepared by a licensed, professional engineer; and</p> <p>ii. Submit as-built plans and specifications for the rainwater collection system if the rainwater collection system is reactivated into service to collect and treat rainwater and distribute it as potable water. The plans and specifications shall be prepared by a licensed, professional engineer.</p> <p>b) Within 195 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): PWS ID No. 0160028



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

|              |          |             |           |             |         |  |
|--------------|----------|-------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 28-Jul-2008 | Screening | 20-Aug-2008 | EPA Due |  |
|              | PCW      | 25-Aug-2008 |           |             |         |  |

|  |  |
|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |
| Respondent                             | Boyd R. Freitag dba Friday's General Store |
| Reg. Ent. Ref. No.                     | RN104711163                                |
| Facility/Site Region                   | 11-Austin                                  |
| Major/Minor Source                     | Minor                                      |

|                                 |                     |                       |                    |
|---------------------------------|---------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                     |                       |                    |
| Enf./Case ID No.                | 36419               | No. of Violations     | 1                  |
| Docket No.                      | 2008-1391-PWS-E     | Order Type            | 1660               |
| Media Program(s)                | Public Water Supply | Government/Non-Profit | No                 |
| Multi-Media                     |                     | Enf. Coordinator      | Rebecca Clausewitz |
|                                 |                     | EC's Team             | Enforcement Team 2 |
| Admin. Penalty \$ Limit Minimum | \$50                | Maximum               | \$1,000            |

## Penalty Calculation Section

|   |            |       |
|---|------------|-------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | Subtotal 1 | \$200 |
|---|------------|-------|

|  |                  |                     |     |
|--|------------------|---------------------|-----|
| <b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>   |                  |                     |     |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. |                  |                     |     |
| Compliance History   | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |

Notes: No adjustment to the penalty is recommended due to the Respondent's compliance history.

|             |    |                  |            |     |
|-------------|----|------------------|------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|-------------|----|------------------|------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|   |            |     |
|---|------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|---|------------|-----|

|                            |                   |                                   |     |
|----------------------------|-------------------|-----------------------------------|-----|
| Economic Benefit           | 0.0% Enhancement* | Subtotal 6                        | \$0 |
| Total EB Amounts           | \$679             | *Capped at the Total EB \$ Amount |     |
| Approx. Cost of Compliance | \$10,000          |                                   |     |

|                             |                |       |
|-----------------------------|----------------|-------|
| <b>SUM OF SUBTOTALS 1-7</b> | Final Subtotal | \$200 |
|-----------------------------|----------------|-------|

|   |      |            |     |
|---|------|------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | Adjustment | \$0 |
|---|------|------------|-----|

Notes: Reduces or enhances the Final Subtotal by the indicated percentage.

|                      |       |
|----------------------|-------|
| Final Penalty Amount | \$200 |
|----------------------|-------|

|                                   |                        |       |
|-----------------------------------|------------------------|-------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | Final Assessed Penalty | \$200 |
|-----------------------------------|------------------------|-------|

|                 |       |           |            |       |
|-----------------|-------|-----------|------------|-------|
| <b>DEFERRAL</b> | 20.0% | Reduction | Adjustment | -\$40 |
|-----------------|-------|-----------|------------|-------|

Notes: Deferral offered for expedited settlement.

|                        |       |
|------------------------|-------|
| <b>PAYABLE PENALTY</b> | \$160 |
|------------------------|-------|

Screening Date 20-Aug-2008

Docket No. 2008-1391-PWS-E

PCW

Respondent Boyd R. Freitag dba Friday's General Store

Policy Revision 2 (September 2002)

Case ID No. 36419

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN104711163

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

## Compliance History Worksheet

## &gt;&gt; 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<br>(number of NOVs meeting criteria)   | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 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 (number of judgements or consent decrees meeting criteria)                                       | 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 (number of counts)  | 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 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 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  | Yes               | -5%     |

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment to the penalty is recommended due to the Respondent's compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 20-Aug-2008

Docket No. 2008-1391-PWS-E

PCW

Respondent Boyd R. Freitag dba Friday's General Store

Policy Revision 2 (September 2002)

Case ID No. 36419

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN104711163

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(c) and (h)(1), 290.46(a), and Tex. Health & Safety Code § 341.035(a)

Violation Description Failed to obtain Commission approval of the rainwater collection system and the groundwater source prior to commencing construction and utilizing the sources for a public water system.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes 100% of the rule requirements were not met.

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

Two single events are recommended, one for each source in the water system that did not obtain Commission review and approval prior to construction.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

**Respondent** Boyd R. Freitag dba Friday's General Store

**Case ID No.** 36419

**Reg. Ent. Reference No.** RN104711163

**Media** Public Water Supply

**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 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 | \$10,000 | 10-Jun-2008 | 30-May-2009 | 0.97 | \$32 | \$647 | \$679 |
| Land                     |          |             |             | 0.00 | \$0  | n/a   | \$0   |
| Record Keeping System    |          |             |             | 0.00 | \$0  | n/a   | \$0   |
| Training/Sampling        |          |             |             | 0.00 | \$0  | n/a   | \$0   |
| Remediation/Disposal     |          |             |             | 0.00 | \$0  | n/a   | \$0   |
| Permit Costs             |          |             |             | 0.00 | \$0  | n/a   | \$0   |
| Other (as needed)        |          |             |             | 0.00 | \$0  | n/a   | \$0   |

**Notes for DELAYED costs** The delayed costs include the amount to submit as-built plans and specifications for the groundwater source and the rainwater collection system to the Commission and obtain approval, calculated from the date of the investigation, to the estimated date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$10,000

**TOTAL**

\$679

# Compliance History

Customer/Respondent/Owner-Operator: CN601204753 FREITAG, BOYD R Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN104711163 FRIDAYS GENERAL STORE Classification: AVERAGE BY Site Rating: 3.01  
DEFAULT  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 69483  
REGISTRATION  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0160028  
Location: 7678 E US HIGHWAY 290, BLANCO COUNTY, TX Rating Date: 9/1/2007 Repeat Violator: NO  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: August 26, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 26, 2003 to August 26, 2008  
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? 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? 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 11/07/2007 (599778)  
2 07/25/2008 (685668)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
BOYD R. FREITAG DBA FRIDAY'S  
GENERAL STORE  
RN104711163**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-1391-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 Boyd R. Freitag dba Friday's General Store ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store and restaurant at 7678 US Highway 290 East in Blanco County, Texas (the "Facility") that has two service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 29, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Hundred Dollars (\$200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Sixty Dollars (\$160) of the administrative penalty and Forty Dollars (\$40) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent ceased utilizing the rainwater collection system on or about August 1, 2008.
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 the Respondent 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, the Respondent is alleged to have failed to obtain Commission approval of the rainwater collection system and the groundwater source prior to commencing construction and utilizing the sources as a public water supply, in violation of 30 TEX. ADMIN. CODE §§ 290.39(c) and (h)(1) and 290.46(a), and TEX. HEALTH & SAFETY CODE § 341.035(a) as documented during an investigation conducted on June 10, 2008.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent'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: Boyd R. Freitag dba Friday's General Store, Docket No. 2008-1391-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

...the ... of ...

2. It is further ordered that the Respondent shall undertake the following technical requirements:

a. Within 90 days after the effective date of this Agreed Order:

i. Submit as-built plans and specifications for the groundwater source. The plans and specifications shall be prepared by a licensed, professional engineer and shall be sent to:

Utilities Technical Review, MC 153  
Water Supply Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

ii. Submit as-built plans and specifications for the rainwater collection system if the rainwater collection system is reactivated into service to collect and treat rainwater and distribute it as potable water. The plans and specifications shall be prepared by a licensed, professional engineer and shall be sent to:

Utilities Technical Review, MC 153  
Water Supply Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

b. Within 195 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 2.a. The certification shall be notarized by a State of Texas Notary Public and shall include the following 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

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. 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.
6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

12/3/2008  
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.

  
\_\_\_\_\_  
Signature

10-22-08  
Date

Boyd Freitag  
Name (Printed or typed)  
Authorized Representative of  
Boyd R. Freitag dba Friday's General Store

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.

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