

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO. 2006-0531-MLM-E TCEQ ID: RN104942107 CASE NO.: 29353
RESPONDENT NAME: JOSEPH SANDOVAL DBA PLAZA MOBILE HOME PARK**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER UTILITIES	<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

SITE WHERE VIOLATIONS OCCURRED: 811 Corinne Drive, San Antonio, Bexar County

TYPE OF OPERATION: public water supply

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There was one complaint alleging that the Respondent was billing tenants for water and wastewater services without proper authorization from TCEQ. There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired March 10, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-3400
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Water Enforcement Section, MC R-14, (361) 825-3425

TCEQ Regional Contact: Ms. Joy Thurston-Cook, San Antonio Regional Office, MC R-13, (210) 403-4018

Respondent: Mr. Joseph Sandoval, Owner, Plaza Mobile Home Park, 303 Park Ridge, Boerne, Texas 78006-5713

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 20, 2005</p> <p>Dates of Investigation Relating to this Case: April 25, 2006 and November 1, 2006</p> <p>Dates of NOEs Relating to this Case: April 28, 2006 and December 8, 2006</p> <p>Background Facts: The EDPRP was filed on August 28, 2006. The EDFARP was filed on May 4, 2007. The EDSARP was filed on October 22, 2007. The Respondent filed an answer requesting a hearing and the case was referred to SOAH. At the preliminary hearing the parties agreed on a date for the evidentiary hearing and a discovery schedule. The Respondent failed to respond to the ED's discovery requests, and the ED filed a Motion to Compel and Motion for Sanctions, which was granted on July 10, 2009. At the evidentiary hearing on September 15, 2009, the Respondent failed to appear. The Executive Director requested a Motion for Remand, which was granted by the ALJ on September 15, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent owes \$244.65 in past-due fees.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to obtain a Certificate of Convenience and Necessity ("CCN") from the Commission prior to rendering retail water service [TEX. WATER CODE § 13.242(a), and 30 TEX. ADMIN. CODE §291.101(a)]. Failed to obtain an approved tariff from the Commission prior to demanding and collecting monetary compensation for providing retail water and wastewater service [TEX. WATER CODE § 13.190, and 30 TEX. ADMIN. CODE §291.21(a)]. 	<p>Total Assessed: \$2,832</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,832</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply; and Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system. Within 30 days: <ol style="list-style-type: none"> Submit an administratively complete CCN and tariff application to the TCEQ for review and approval; the Respondent shall respond completely and adequately to all requests for information concerning CCN and tariff application with 15 days after such requests; and Pay all outstanding fees, including associated penalties and interest. Within 45 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1 and 2. Within 200 days, obtain Commission approval of the CCN and tariff application. Within 215 days, submit written certification demonstrating compliance with Ordering Provision No. 4.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to perform routine monthly bacteriological sampling of the public water supply and failing to provide public notification of the failure to conduct monthly bacteriological sampling during the months of May 2006, June 2006, July 2006, August 2006, September 2006, and October 2006 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>4. Failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 90150552 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].</p>		



DATES	Assigned	01-May-2006	Screening	10-May-2006	EPA Due	
	PCW	10-May-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Joseph Sandoval dba Plaza Mobile Home Park
Reg. Ent. Ref. No.	RN104942107
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29353	No. of Violations	2
Docket No.	2006-0531-MLM-E	Order Type	Findings
Media Program(s)	Public Water Utilities	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$500

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 Enhancement Subtotals 2, 3, & 7

Notes: The penalty enhancement is due to one prior Notice of Violation ("NOV") for violations that are the same as or similar to the violations in the current enforcement action and six dissimilar NOV's.

Culpability Enhancement Subtotal 4

Notes: The TCEQ sent a letter, dated November 2, 2005, outlining the rules regarding utility billing and the requirements for obtaining a Certificate of Convenience and Necessity ("CCN"). Additionally, the application forms for obtaining a CCN were enclosed and a response was requested within 21 days.

Good Faith Effort to Comply Reduction Subtotal 5

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

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

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$183"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$3,000"/>	

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

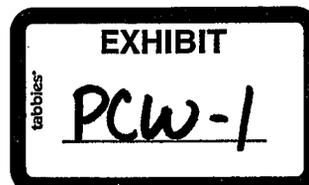
STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: No deferral is offered when culpability has been determined.

PAYABLE PENALTY



Screening Date 10-May-2006

Docket No. 2006-0531-MLM-E

PCW

Respondent Joseph Sandoval dba Plaza Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 29353

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104942107

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	6	12%
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	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%
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) 17%

>> 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 penalty enhancement is due to one prior Notice of Violation ("NOV") for violations that are the same as or similar to the violations in the current enforcement action and six dissimilar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date 10-May-2006

Docket No. 2006-0531-MLM-E

PCW

Respondent Joseph Sandoval dba Plaza Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 29353

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104942107

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 291.101(a)

Secondary Rule Cite(s) Tex. Water Code § 13.242(a)

Violation Description Failure to obtain a Certificate of Convenience and Necessity ("CCN") from the Commission prior to rendering retail water to the public.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$450

Base Penalty Subtotal \$50

Violation Events

Number of Violation Events 6

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

Violation Base Penalty \$300

Six monthly events are recommended from the November 23, 2005 deadline outlined in the November 2, 2005 Utilities and Districts Section's letter to the May 10, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$183

Violation Final Penalty Total \$426

This violation Final Assessed Penalty (adjusted for limits) \$426

Economic Benefit Worksheet

Respondent Joseph Sandoval dba Plaza Mobile Home Park
Case ID No. 29353
Reg. Ent. Reference No. RN104942107
Media [Statute] Public Water Utilities
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
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)	\$3,000	25-Apr-2006	15-Jul-2007	1.2	\$183	n/a	\$183

Notes for DELAYED costs
 Estimated cost of time and expenses to complete and submit a CCN and tariff applications. The date required is the date of the investigation. The final date is the estimated 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

Approx. Cost of Compliance \$3,000
TOTAL \$183

Screening Date 10-May-2006

Docket No. 2006-0531-MLM-E

PCW

Respondent Joseph Sandoval dba Plaza Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 29353

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN104942107

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 291.21(a)

Secondary Rule Cite(s) Tex. Water Code § 13.190

Violation Description Failure to obtain an approved tariff from the Commission prior to demanding and collecting monetary compensation for providing retail water and wastewater service.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> Programmatic Matrix

		Falsification			Percent
		Major	Moderate	Minor	
		X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$450

Base Penalty Subtotal \$50

Violation Events

Number of Violation Events 6

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

Violation Base Penalty \$300

Six monthly events are recommended from the November 23, 2005 deadline outlined in the November 2, 2005 Utilities and Districts Section's letter to the May 10, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$426

This violation Final Assessed Penalty (adjusted for limits) \$426

Economic Benefit Worksheet

Respondent Joseph Sandoval dba Plaza Mobile Home Park
Case ID No. 29353
Reg. Ent. Reference No. RN104942107
Media [Statute] Public Water Utilities
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
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	Economic benefit reflected in violation no.1 of the PCW.						

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							

Approx. Cost of Compliance \$0

TOTAL \$0



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	29-Jan-2007	Screening	14-Feb-2007	EPA Due	1-Mar-2007
	PCW	14-Feb-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Joseph Sandoval dba Plaza Mobile Home Park
Reg. Ent. Ref. No.	RN104942107
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	29353	No. of Violations	2
Docket No.	2006-0531-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 32% Enhancement Subtotals 2, 3, & 7

Notes: The penalty enhancement is due to six prior Notices of Violation ("NOV's") for violations that are the same as or similar to the violations in the current enforcement action and one dissimilar NOV.

Culpability No 0% Enhancement Subtotal 4

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5

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

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

Total EB Amounts \$321 **0% Enhancement*** Subtotal 6
Approx. Cost of Compliance \$300 *Capped at the Total EB \$ Amount

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

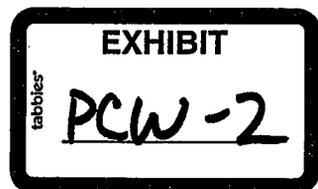
STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY



Screening Date 14-Feb-2007

Docket No. 2006-0531-MLM-E

PCW

Respondent Joseph Sandoval dba Plaza Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 29353

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104942107

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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 (number of NOVs meeting criteria)	6	30%
	Other written NOVs	1	2%
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%

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) 32%

>> 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 penalty enhancement is due to six prior Notices of Violation ("NOV's") for violations that are the same as or similar to the violations in the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 32%

Screening Date 14-Feb-2007

Docket No. 2006-0531-MLM-E

PCW

Respondent Joseph Sandoval dba Plaza Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 29353

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104942107

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to perform routine monthly bacteriological sampling of the public water supply and failed to provide public notification of the failure to conduct monthly bacteriological sampling during the months of May 2006, June 2006, July 2006, August 2006, September 2006, and October 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to perform routine bacteriological sampling of the public water supply and failure to provide public notification could result in customers of the water supply being exposed to significant amounts of bacteriological contamination which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 6 Number of violation days 184

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,500

Six monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$321

Violation Final Penalty Total \$1,980

This violation Final Assessed Penalty (adjusted for limits) \$1,980

Economic Benefit Worksheet

Respondent Joseph Sandoval dba Plaza Mobile Home Park
Case ID No. 29353
Reg. Ent. Reference No. RN104942107
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
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No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	1-May-2006	31-Oct-2006	1.4	\$21	\$300	\$321
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount to conduct monthly bacteriological sampling and provide public notification, calculated for the months when the violation occurred.

Approx. Cost of Compliance

\$300

TOTAL

\$321

Screening Date 14-Feb-2007

Docket No. 2006-0531-MLM-E

PCW

Respondent Joseph Sandoval dba Plaza Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 29353

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104942107

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702

Violation Description Failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 90150552.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$0

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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Joseph Sandoval dba Plaza Mobile Home Park
Case ID No. 29353
Reg. Ent. Reference No. RN104942107
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				0.0	\$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

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN603024712 SANDOVAL, JOSEPH	Classification:	Rating:
Regulated Entity:	RN104942107 PLAZA MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY UTILITIES	REGISTRATION REGISTRATION	0150552 X0757
Location:	811 Corinne Drive, San Antonio, Texas, Bexar County		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	February 14, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 14, 2002 to February 14, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Epifanio Villarreal</u>	Phone:	<u>210-403-4033</u>

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? | 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.)
- | | |
|------------|----------|
| 06/27/2006 | (533737) |
| 09/15/2006 | (534154) |
| 01/26/2007 | (534654) |
| 04/27/2006 | (464134) |
| 08/25/2006 | (534391) |
| 10/25/2006 | (534407) |
| 11/21/2006 | (534411) |
| 04/05/2006 | (464061) |
| 09/25/2006 | (534399) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | | |
|---|---|--|--------------------------|--|
| 1 | Date: 08/25/2006 (534391) | | | |
| | Self Report? NO | | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) | | | |
| | Description: Failure to collect any routine monitoring sample(s) for 07/2006. | | | |
| | Self Report? NO | | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) | | | |
| | Description: Failure to post PN for not collecting any routine monitoring sample(s) in 07/2006. | | | |
| 2 | Date: 09/25/2006 (534399) | | | |
| | Self Report? NO | | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) | | | |
| | Description: Failure to collect any routine monitoring sample(s) for 08/2006. | | | |
| | Self Report? NO | | Classification: Moderate | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) | | | |

3 Description: Failure to post PN for not collecting any routine monitoring sample(s) in 08/2006.
Date: 06/27/2006 (533737)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 05/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring sample(s) for 05/2006.

4 Date 10/25/2006 (534407)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring sample(s) for 09/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 09/2006.

5 Date 09/15/2006 (534154)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring sample(s) for 06/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring samples(s) in 06/2006.

6 Date 11/21/2006 (534411)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: Failure to collect any routine monitoring sample(s) for 10/2006.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 10/2006.

7 Date 04/05/2006 (464061)
Self Report? NO Classification: Major
Citation: 2B TWC Chapter 13, SubChapter A 13.242(a)
30 TAC Chapter 291, SubChapter G 291.101(a)
Description: Failed to obtain a Certificate of Convenience and Necessity ("CCN") from the Commission prior to rendering retail water service.
Self Report? NO Classification: Major
Citation: 2B TWC Chapter 13, SubChapter A 13.190[G]
30 TAC Chapter 291, SubChapter B 291.21(a)
Description: Failed to obtain an approved tariff from the Commission prior to demanding and collecting monetary compensation for providing retail water and wastewater service.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 291, SubChapter B 291.21(b)(1)(A)
Description: Failure to file copies of its tariff required with a CCN application.

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
JOSEPH SANDOVAL DBA PLAZA
MOBILE HOME PARK
RN104942107**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2006-0531-MLM-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 13, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Joseph Sandoval dba Plaza Mobile Home Park ("Mr. Sandoval").

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

FINDINGS OF FACT

1. Mr. Sandoval owns and operates a public water supply located at 811 Corinne Drive, San Antonio, Bexar County, Texas (the "Facility").
2. The Facility has at least 15 service connections; serves at least 25 people per day for at least 60 days per year; and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38 (63).
3. Mr. Sandoval owns and operates, in Texas, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use.
4. Mr. Sandoval is not exempt from regulation under Tex. Water Code ch. 13 or the rules of the Commission.

5. During a record review conducted on April 25, 2006, a TCEQ Central Office investigator documented that Mr. Sandoval:
 - a. Failed to obtain a Certificate of Convenience and Necessity ("CCN") from the Commission prior to rendering retail water service; and
 - b. Failed to obtain an approved tariff from the Commission prior to demanding and collecting monetary compensation for providing retail water and wastewater service.
6. During a record review conducted on November 1, 2006, a TCEQ Central Office investigator documented that Mr. Sandoval:
 - a. Failed to perform routine monthly bacteriological sampling of the public water supply and failing to provide public notification of the failure to conduct monthly bacteriological sampling during the months of May 2006, June 2006, July 2006, August 2006, September 2006, and October 2006; and
 - b. Failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 90150552.
7. Mr. Sandoval received notice of the violations in paragraph 5 on or about May 3, 2006.
8. Mr. Sandoval received notice of the violations in paragraph 6.a. on December 13, 2006.
9. Mr. Sandoval received notice of the violation in paragraph 6.b. when he received the EDSARP via first class mail. The certified mail EDSARP was returned to TCEQ on or about January 4, 2008 as "unclaimed". The first class mail was not returned to TCEQ.
10. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joseph Sandoval dba Plaza Mobile Home Park" (the "EDPRP") in the TCEQ Chief Clerk's office on August 28, 2006.
11. By letter dated August 28, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Sandoval with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Sandoval received notice of the EDPRP.

12. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joseph Sandoval dba Plaza Mobile Home Park" (the "EDFARP") in the TCEQ Chief Clerk's office on May 4, 2007.
13. By letter dated May 4, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Sandoval with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Sandoval received notice of the EDFARP.
14. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joseph Sandoval dba Plaza Mobile Home Park" (the "EDSARP") in the TCEQ Chief Clerk's office on October 22, 2007.
15. By letter dated October 22, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Sandoval with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Sandoval received notice of the EDSARP.
16. Mr. Sandoval's first answer requesting a hearing was filed on October 27, 2008 and, pursuant to 30 TEX. ADMIN. CODE § 70.109, the matter was referred to the State Office of Administrative Hearings ("SOAH") on December 12, 2008. Mr. Sandoval filed his second answer on February 12, 2009,
17. On January 6, 2009 the TCEQ Chief Clerk mailed the Notice of the February 19, 2009 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Mr. Sandoval. Mr. Sandoval's attorney ("Mr. Ronnie Jones") appeared at the preliminary hearing on behalf of Mr. Sandoval. The parties agreed to a hearing schedule on the record, which included the date of the evidentiary hearing. Rebecca S. Smith, Administrative Law Judge ("ALJ") issued Order No. 1 Memorializing Preliminary Hearing and Approving Agreed Hearing Schedule on February 23, 2009.
18. On March 27, 2009 Mr. Ronnie Jones filed his Motion to Withdraw as Attorney in Charge ("Motion"). In part, the Motion stated that the evidentiary hearing was set for September 15, 2009, and that Mr. Jones sent the Motion to Mr. Sandoval via first class mail and via certified mail to his last known mailing address. The ALJ entered Order No. 2 Granting

Motion to Withdraw as Attorney of Record ("Order") on April 9, 2009, and sent a copy of her Order to Mr. Sandoval.

19. On June 9, 2009, the Executive Director filed his Motion to Compel and Motion for Sanctions Against Joseph Sandoval dba Plaza Mobile Home Park ("Motion to Compel") on June 9, 2009 due Mr. Sandoval's failure to respond to discovery requests pursuant to Order No. 1. The Motion to Compel included notice that the evidentiary hearing was set for September 15, 2009. The Executive Director sent a copy of the Motion to Compel to Mr. Sandoval via first class mail and via certified mail. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Sandoval received the Motion to Compel.
20. On September 15, 2009, the Administrative Law Judge ("ALJ") convened the evidentiary hearing, but Mr. Sandoval failed to appear. The Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH Docket.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1, 2, 3, and 4, Mr. Sandoval is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 13, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 5.a., Mr. Sandoval failed to obtain a CCN from the Commission prior to rendering retail water service, in violation of TEX. WATER CODE § 13.242(a), and 30 TEX. ADMIN. CODE § 291.101(a).
3. As evidenced by Finding of Fact No. 5.b., Mr. Sandoval failed to obtain an approved tariff from the Commission prior to demanding and collecting monetary compensation for providing retail water and wastewater service, in violation of TEX. WATER CODE § 13.190, and 30 TEX. ADMIN. CODE § 291.21(a).
4. As evidenced by Finding of Fact No. 6.a., Mr. Sandoval failed to perform routine monthly bacteriological sampling of the public water supply and failing to provide public notification of the failure to conduct monthly bacteriological sampling during the months of May 2006, June 2006, July 2006, August 2006, September 2006, and October 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d).

5. As evidenced by Finding of Fact No. 6.b., Mr. Sandoval failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 90150552, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
6. As evidenced by Finding of Fact Nos. 10 through 15, the Executive Director timely served Mr. Sandoval with proper notice of the EDPRP, EDFARP and EDSARP, as required by TEX. WATER CODE § 7.055, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. Pursuant to TEX. WATER CODE § 7.057, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Joseph Sandoval dba Plaza Mobile Home Park and assess the penalty recommended by the Executive Director.
8. As evidenced by Finding of Fact No. 16, Mr. Sandoval filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056, 30 TEX. ADMIN. CODE § 70.105, and TEX. HEALTH & SAFETY CODE § 341.049, and the matter was referred to SOAH pursuant to 30 TEX. ADMIN. CODE § 70.109.
9. As evidenced by Finding of Fact No. 17, Mr. Sandoval was provided proper notice of the preliminary hearing pursuant to TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.425, 70.104, and 80.6(b)(3).
10. As evidenced by Finding of Fact Nos. 17 through 19, Mr. Sandoval was provided proper notice of the evidentiary hearing pursuant to TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.425, 70.104, and 80.6(b)(3).
11. As evidenced by Finding of Fact No. 20, Mr. Sandoval failed to appear for the evidentiary hearing. Pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.057, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106(b), the Commission may enter a Default Order against Joseph Sandoval dba Plaza Mobile Home Park and assess the penalty recommended by the Executive Director.
12. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Sandoval 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.

13. An administrative penalty in the amount of two thousand eight hundred thirty-two dollars (\$2,832.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053 and TEX. HEALTH & SAFETY CODE § 341.049(b).
14. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Sandoval is assessed an administrative penalty in the amount of two thousand eight hundred thirty-two dollars (\$2,832.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Sandoval's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Joseph Sandoval dba Plaza Mobile Home Park; Docket No. 2006-0531-MLM-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. Pursuant to TEX. WATER CODE ch. 13, the Commission shall protect the public interest inherent in rates and services of retail public utilities and shall ensure that rates, services, and operations are just and reasonable to the consumers and to the public retail utilities.
3. Pursuant to TEX. HEALTH & SAFETY CODE ch. 341, the Commission shall ensure that public drinking water supply systems supply safe drinking water and are technically sound.
4. Mr. Sandoval shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Mr. Sandoval shall:

- i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan, as required by 30 TEX. ADMIN. CODE § 290.109.
- b. Within 30 days after the effective date of this Order, Mr. Sandoval shall submit an administratively complete CCN and tariff application to the TCEQ for review and approval, in accordance with 30 TEX. ADMIN. CODE §§ 291.101 and 291.21. The CCN and tariff applications shall be submitted to:

Utilities & Districts Section, MC 153
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, TX 78711-3088

- c. Mr. Sandoval shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the CCN and tariff application within 15 days after the date of such requests, or by any other deadline specified in writing;
- d. Within 30 days after the effective date of this Order, Mr. Sandoval shall pay all outstanding fees, including any associated penalties and interest for TCEQ Financial Administration Account No. 90150552. The payment shall be sent with the notation: "Joseph Sandoval dba Plaza Mobile Home Park; TCEQ Docket No. 2006-0531-MLM-E; FA Account No. 90150552", 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

- e. Within 45 days after the effective date of this Order, Mr. Sandoval shall submit written certification to demonstrate compliance with Ordering Provision Nos. 4.a., 4.b. and 4.d., as described in Ordering Provision 4.g., below.

- f. Within 200 days after the effective date of this Order, Mr. Sandoval shall obtain Commission approval of the CCN and tariff application;
- g. Within 215 days after the effective date of this Order, Mr. Sandoval shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.f. 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.”

Mr. Sandoval shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a., 2.b., 2.d. and 2.f. 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:

Tom Haberle, Water Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Road
San Antonio, Texas 78233-3096

- 5. All relief not expressly granted in this Order is denied.
- 6. The provisions of this Order shall apply to and be binding upon Mr. Sandoval. Mr. Sandoval is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

7. If Mr. Sandoval fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Sandoval's failure to comply is not a violation of this Order. Mr. Sandoval shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Sandoval shall notify the Executive Director within seven days after Mr. Sandoval becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Sandoval shall be made in writing to the Executive Director. Extensions are not effective until Mr. Sandoval receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. 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 Mr. Sandoval if the Executive Director determines that Mr. Sandoval has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Joseph Sandoval dba Plaza Mobile Home Park
Docket No. 2006-0531-MLM-E
Page 10

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Kari L. Gilbreth. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joseph Sandoval dba Plaza Mobile Home Park” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 28, 2006.

I sent the EDPRP to Mr. Sandoval at his last known address on August 28, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

I sent the EDFARP to Mr. Sandoval at his last known address on May 4, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

I sent the EDSARP to Mr. Sandoval at his last known address on October 22, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDSARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

Mr. Sandoval filed two answers requesting a hearing; one was filed on October 27, 2008 and the second answer was filed on February 12, 2009, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on December 12, 2008.

On January 6, 2009 the TCEQ Chief Clerk mailed the Notice of the February 19, 2009 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Mr. Sandoval. Mr. Sandoval’s attorney appeared at the preliminary hearing on behalf of Mr. Sandoval.

On March 27, 2009 Mr. Ronnie Jones filed his Motion to Withdraw as Attorney in Charge ("Motion"). In part, the Motion stated that the evidentiary hearing was set for September 15, 2009, and that Mr. Jones sent the Motion to Mr. Sandoval via first class mail and via certified mail to his last known mailing address. The ALJ entered Order No. 2 Granting Motion to Withdraw as Attorney of Record ("Order") on April 9, 2009, and sent a copy of her Order to Mr. Sandoval.

On June 9, 2009, the Executive Director filed his Motion to Compel and Motion for Sanctions Against Joseph Sandoval dba Plaza Mobile Home Park ("Motion to Compel") on June 9, 2009 due Mr. Sandoval's failure to respond to discovery requests pursuant to Order No. 1. The Motion to Compel included notice that the evidentiary hearing was set for September 15, 2009. The Executive Director sent a copy of the Motion to Compel to Mr. Sandoval via first class mail and via certified mail. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Sandoval received the Motion to Compel.

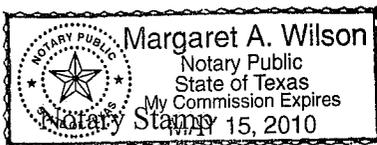
On September 15, 2009, the Administrative Law Judge ("ALJ") convened the evidentiary hearing, but Mr. Sandoval failed to appear. At that hearing I requested and received a finding that Mr. Sandoval dba Plaza Mobile Home Park was served with proper notice of the hearing. I also requested and received a remand from the Administrative Law Judge pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1), which gives an ALJ the authority to remand the case back to the agency "to allow the agency to dispose of the case on a default basis under TEX. GOV'T CODE § 2001.056 and the referring agency's rules." Pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.057, and 30 TEX. ADMIN. CODE § 70.106(b), the Commission may enter a Default Order against Joseph Sandoval dba Plaza Mobile Home Park and assess the penalty recommended by the Executive Director.



Kari L. Gilbreth
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 2nd day of November, A.D., 2009.



Notary Signature