

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1823-PWS-E **TCEQ ID:** RN102043452 **CASE NO.:** 36845

RESPONDENT NAME: Federal Bureau of Prisons

| | | |
|---|---|--|
| 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: Federal Correctional Institution Seagoville, 2113 North Highway 175, Seagoville, Dallas County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 April 27, 2009. 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 R12, (713) 767-3672; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Julian Castaneda, Safety Manager, Federal Bureau of Prisons, 2113 North Highway 175, Seagoville, Texas 75159 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 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: March 18, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 27, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to collect a minimum of three repeat distribution coliform samples for each coliform-positive sample found within 24 hours of being notified of the positive result [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(i)].</p> <p>2) Exceeded the Maximum Contaminant Level ("MCL") for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>3) Failure to collect routine distribution coliform samples [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> | <p>Total Assessed: \$1,079</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: \$1,079</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Immediately upon the effective date of this Agreed Order, begin collecting and submitting all required routine and repeat distribution coliform samples which are representative of the Facility, according to the Facility's microbiological monitoring plan;</p> <p>b) Within 180 days after the effective date of this Agreed Order, comply with the coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants; and</p> <p>c) 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 Provisions a. and b.</p> |

Additional ID No(s): PWS 5070128



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|-------------|
| DATES | Assigned | 3-Nov-2008 | Screening | 25-Nov-2008 | EPA Due | 28-Feb-2008 |
| | PCW | 25-Nov-2008 | | | | |

| | |
|--|---------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Federal Bureau of Prisons |
| Reg. Ent. Ref. No. | RN102043452 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|-------------------------|---------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36845 | No. of Violations | 3 |
| Docket No. | 2008-1823-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | Yes |
| 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) Subtotal 1 \$850

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 27.0% Enhancement Subtotals 2, 3, & 7 \$229

Notes: Enhancement recommended due to five previous NOV's for same or similar violations and one unrelated NOV in the past five years.

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 | \$418 |
| Approx. Cost of Compliance | \$950 |

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,079

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,079

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,079

DEFERRAL 0.0% Reduction Adjustment \$0

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 \$1,079

Screening Date 25-Nov-2008

Docket No. 2008-1823-PWS-E

PCW

Respondent Federal Bureau of Prisons

Policy Revision 2 (September 2002)

Case ID No. 36845

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102043452

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 (number of NOVs meeting criteria) | 5 | 25% |
| | 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 judgments 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) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended due to five previous NOVs for same or similar violations and one unrelated NOV in the past five years.

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

| | | |
|---|--|---|
| Screening Date 25-Nov-2008 | Docket No. 2008-1823-PWS-E | PCW |
| Respondent Federal Bureau of Prisons | | <small>Policy Revision 2 (September 2002)</small> |
| Case ID No. 36845 | | <small>PCW Revision October 30, 2008</small> |
| Reg. Ent. Reference No. RN102043452 | | |
| 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)(3)(A)(I)"/> | |
| Violation Description | <input type="text" value="Failed to collect a minimum of three repeat distribution coliform samples for each coliform positive sample found within 24 hours of being notified of the positive result on a routine sample found during the months of September and October 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"/> |
| Potential | <input type="text" value="x"/> | <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 collect repeat samples may expose customers of the Facility to significant amounts of undetected contaminants which could 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="2"/> | <input type="text" value="61"/> Number of violation days |
| <small>mark only one with an x</small> | daily | <input type="text"/> |
| | weekly | <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="\$500"/> |
| | <input type="text" value="Two monthly events are recommended."/> | |
| Good Faith Efforts to Comply | | |
| | <input type="text" value="0.0%"/> Reduction | <input type="text" value="\$0"/> |
| | <small>Before NOV NOV to EDPRP/Settlement Offer</small> | |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input type="text" value="x"/> | <small>(mark with x)</small> |
| Notes | <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/> | |
| | Violation Subtotal | <input type="text" value="\$500"/> |
| Economic Benefit (EB) for this violation | | |
| Statutory Limit Test | | |
| Estimated EB Amount | <input type="text" value="\$158"/> | Violation Final Penalty Total <input type="text" value="\$635"/> |
| | This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$635"/> | |

Economic Benefit Worksheet

Respondent Federal Bureau of Prisons
Case ID No. 36845
Reg. Ent. Reference No. RN102043452
Media Public Water Supply
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|

Item Description 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

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] | \$150 | 1-Sep-2007 | 31-Oct-2007 | 1.08 | \$8 | \$150 | \$158 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided costs includes the amount to collect a set of repeat samples (3 samples per month @ \$25 per sample), calculated for September and October 2007.

Approx. Cost of Compliance \$150

TOTAL \$158

| | | |
|--|---|---|
| Screening Date 25-Nov-2008 | Docket No. 2008-1823-PWS-E | PCW |
| Respondent Federal Bureau of Prisons | | <small>Policy Revision 2 (September 2002)</small> |
| Case ID No. 36845 | | <small>PCW Revision October 30, 2008</small> |
| Reg. Ent. Reference No. RN102043452 | | |
| Media [Statute] Public Water Supply | | |
| Enf. Coordinator Amanda Henry | | |
| Violation Number <input type="text" value="2"/> | | |
| Rule Cite(s) | <input type="text" value="30 Tex. Admin. Code § 290.109(f)(3) and Tex. Health & Safety Code § 341.0315(c)"/> | |
| Violation Description | <input 2007."="" coliform="" for="" in="" mcl")="" october="" total="" type="text" value="Exceeded the Maximum Contaminant Level ("/> | |
| | 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"/> | Percent <input type="text" value="10%"/> |
| Potential <input type="text"/> <input type="text" value="x"/> <input type="text"/> | | |
| >> 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="The presence of coliform bacteria is an indication that the drinking water contains significant amounts of contaminants that do not exceed levels that are protective of human health."/> | |
| | Adjustment | <input type="text" value="\$900"/> |
| | | <input type="text" value="\$100"/> |
| Violation Events | | |
| | Number of Violation Events <input type="text" value="1"/> | <input type="text" value="31"/> Number of violation days |
| <small>mark only one with an x</small> | daily <input type="text"/> | Violation Base Penalty <input type="text" value="\$100"/> |
| | weekly <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"/> | |
| | <input type="text" value="One monthly event is recommended."/> | |
| Good Faith Efforts to Comply | | |
| | <input type="text" value="0.0%"/> Reduction | <input type="text" value="\$0"/> |
| | <small>Before NOV NOV to EDPRP/Settlement Offer</small> | |
| Extraordinary <input type="text"/> | <input type="text"/> | |
| Ordinary <input type="text"/> | <input type="text"/> | |
| N/A <input type="text" value="x"/> | <small>(mark with x)</small> <input type="text"/> | |
| Notes | <input type="text" value="The Respondent does not meet the good faith criteria for this violation."/> | |
| | Violation Subtotal | <input type="text" value="\$100"/> |
| Economic Benefit (EB) for this violation | | |
| | Estimated EB Amount <input type="text" value="\$210"/> | Statutory Limit Test |
| | | Violation Final Penalty Total <input type="text" value="\$127"/> |
| | | This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$127"/> |

Economic Benefit Worksheet

Respondent Federal Bureau of Prisons
Case ID No. 36845
Reg. Ent. Reference No. RN102043452
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 |
| <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)

| 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] | \$200 | 1-Oct-2007 | 31-Oct-2007 | 1.00 | \$10 | \$200 | \$210 |
| Other (as needed) | | | 0.00 | \$0 | \$0 | \$0 | |

Notes for AVOIDED costs

Avoided costs include the amount for additional oversight and maintenance that could have prevented the exceedance, calculated for the month in which the MCL exceedance occurred.

Approx. Cost of Compliance \$200

TOTAL \$210

| | | | | | | | | | | | | | | | | | |
|--|---|--------------------------------|---------------|-------------------------------|-------------------|-------|---------|----------|-----------|--------|------------|---|-------------------|-----------|--------------|--|--------------------|
| <p>Screening Date 25-Nov-2008 Respondent Federal Bureau of Prisons Case ID No. 36845 Reg. Ent. Reference No. RN102043452 Media [Statute] Public Water Supply Enf. Coordinator Amanda Henry Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(ii) and Tex. Health & Safety Code § 341.033(d)</p> | <p>Docket No. 2008-1823-PWS-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p> | | | | | | | | | | | | | | | | |
| <p>Violation Description Failed to perform routine distribution coliform sampling in June 2008.</p> | | | | | | | | | | | | | | | | | |
| <p>Base Penalty \$1,000</p> | | | | | | | | | | | | | | | | | |
| <p>>> Environmental, Property and Human Health Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="3" style="width:10%; text-align: center; vertical-align: middle;">OR</td> <td colspan="3" style="text-align: center;">Harm</td> <td rowspan="3"></td> </tr> <tr> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td></td> <td style="text-align: right;">Percent 25%</td> </tr> </table> | | OR | Harm | | | | Major | Moderate | Minor | Actual | | | | Potential | x | | Percent 25% |
| OR | Harm | | | | | | | | | | | | | | | | |
| | Major | | Moderate | | Minor | | | | | | | | | | | | |
| | Actual | | | | | | | | | | | | | | | | |
| | Potential | x | | Percent 25% | | | | | | | | | | | | | |
| <p>>> Programmatic Matrix</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td style="text-align: right;">Percent 0%</td> </tr> </table> <p>Matrix Notes Failure to perform routine distribution coliform sampling may expose customers of the Facility to significant amounts of undetected contaminants in the drinking water which could exceed levels that are protective of human health.</p> <p style="text-align: right;">Adjustment \$750</p> | | | Falsification | Major | Moderate | Minor | | | | | | | Percent 0% | | | | |
| | Falsification | Major | Moderate | Minor | | | | | | | | | | | | | |
| | | | | | Percent 0% | | | | | | | | | | | | |
| <p>\$250</p> | | | | | | | | | | | | | | | | | |
| <p>Violation Events</p> <p>Number of Violation Events <input type="text" value="1"/> <input type="text" value="31"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="7" style="width:10%; text-align: center; vertical-align: middle;"><i>mark only one with an x</i></td> <td style="text-align: center;">daily</td> <td></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td></td> </tr> <tr> <td style="text-align: center;">annual</td> <td></td> </tr> <tr> <td style="text-align: center;">single event</td> <td></td> </tr> </table> <p style="text-align: right;">Violation Base Penalty \$250</p> <p style="text-align: center; border: 1px solid black; padding: 5px;">One monthly event is recommended.</p> | | <i>mark only one with an x</i> | daily | | weekly | | monthly | x | quarterly | | semiannual | | annual | | single event | | |
| <i>mark only one with an x</i> | daily | | | | | | | | | | | | | | | | |
| | weekly | | | | | | | | | | | | | | | | |
| | monthly | | x | | | | | | | | | | | | | | |
| | quarterly | | | | | | | | | | | | | | | | |
| | semiannual | | | | | | | | | | | | | | | | |
| | annual | | | | | | | | | | | | | | | | |
| | single event | | | | | | | | | | | | | | | | |
| <p>Good Faith Efforts to Comply <input type="text" value="0.0%"/> Reduction \$0</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p>Notes The Respondent does not meet the good faith criteria for this violation.</p> <p style="text-align: right;">Violation Subtotal \$250</p> | | | Before NOV | NOV to EDPRP/Settlement Offer | Extraordinary | | | Ordinary | | | N/A | x | (mark with x) | | | | |
| | Before NOV | NOV to EDPRP/Settlement Offer | | | | | | | | | | | | | | | |
| Extraordinary | | | | | | | | | | | | | | | | | |
| Ordinary | | | | | | | | | | | | | | | | | |
| N/A | x | (mark with x) | | | | | | | | | | | | | | | |
| <p>Economic Benefit (EB) for this violation Statutory Limit Test</p> <p>Estimated EB Amount <input type="text" value="\$50"/> Violation Final Penalty Total <input type="text" value="\$318"/></p> <p style="text-align: right;">This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$318"/></p> | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent Federal Bureau of Prisons
Case ID No. 36845
Reg. Ent. Reference No. RN102043452
Media Public Water Supply
Violation No. 3

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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

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 | \$600 | 1-Jun-2008 | 30-Jun-2008 | 0.08 | \$2 | \$48 | \$50 |
| 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

The avoided costs include the amount to conduct monthly distribution coliform sampling based on a population count of 2,350 individuals, calculated for the month in which no monitoring was performed.

Approx. Cost of Compliance

\$600

TOTAL

\$50

Compliance History Report

| | | | | |
|---|---|---|------------------------------------|---|
| Customer/Respondent/Owner-Operator: | CN600766976 | Federal Bureau of Prisons | Classification: AVERAGE | Rating: 6.63 |
| Regulated Entity: | RN102043452 | FEDERAL CORRECTIONAL INSTITUTION SEAGOVILLE | Classification: AVERAGE BY DEFAULT | Site Rating: 3.01 |
| ID Number(s): | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 0570128 | |
| | PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 9560 | |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | DB0284F | |
| Location: | 2113 N HIGHWAY 175, SEAGOVILLE, DALLAS COUNTY, TX | | | Rating Date: 9/1/2008 Repeat Violator: NO |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | | |
| Date Compliance History Prepared: | November 25, 2008 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | November 25, 2003 to November 25, 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? 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.)

- | | | |
|---|------------|----------|
| 1 | 09/01/2005 | (403751) |
| 2 | 04/25/2008 | (646523) |
| 3 | 10/21/2008 | (705810) |
| 4 | 10/21/2008 | (705845) |
| 5 | 10/21/2008 | (706071) |
| 6 | 10/27/2008 | (706083) |

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

Date: 09/02/2005 (403751)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.5 mg/L chloramine, as per agency regulations.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)

Description: Failure to establish a program to provide protection against backflow and siphonage, potential contamination and health hazards.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to maintain records per this agency's rules and regulations. These records include copies of Monthly Operating Reports.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(k)

Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121

Description: Failure to develop and maintain an up to date system monitoring plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failure to equip the ground storage tank and elevated storage tank with a water level indicator located at the tank site.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(6)

Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: a contract which authorizes the purchase of enough water to meet monthly or annual needs of the purchaser.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)

Description: Failure to provide records of daily chlorine residual readings from the distribution system.

Date: 12/20/2007 (705810)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)

Description: TCR Repeat Monitoring Violation 09/2007 - Failure to collect any repeats following a coliform found result.

Date: 01/31/2008 (705845)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)

Description: TCR Repeat Monitoring Violation 10/2007 - Failure to collect any repeat samples following coliform found results.

Date: 04/25/2008 (646523)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to maintain records per this agency's rules and regulations. These records include copies of Monthly Operating Reports.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(6)

Description: Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include: a contract which authorizes the purchase of enough water to meet monthly or annual needs of the purchaser.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to properly repair the leak on the elevated storage tank.

Date: 07/31/2008 (706071)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any of the required routine monthly samples.

Date: 10/17/2008 (705845)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR Maximum Contaminant Level (MCL) Violation 10/2007 - System exceeded a MCL Violation.

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
FEDERAL BUREAU OF PRISONS
RN102043452

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1823-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Federal Bureau of Prisons ("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 presented this agreement to the Commission.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a prison with a public water supply at 2113 North Highway 175 in Seagoville, Dallas County, Texas (the "Facility") that has approximately 778 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on March 18, 2008, TCEQ staff documented that the Respondent:

- a. Did not collect a minimum of three repeat distribution coliform samples within 24 hours of being notified of the positive result on a routine sample found during the months of September and October 2007;
 - b. Did not comply with the Maximum Contaminant Level ("MCL") for total coliform in October 2007; and
 - c. Did not perform routine distribution coliform sampling in June 2008.
3. The Respondent received notice of the violations on or about November 1, 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.a., the Respondent failed to collect a minimum of three repeat distribution coliform samples for each coliform-positive sample found within 24 hours of being notified of the positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(i).
3. As evidenced by Findings of Fact No. 2.b., the Respondent exceeded the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. As evidenced by Findings of Fact No. 2.c., the Respondent failed to collect routine distribution coliform samples, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
5. 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.
6. An administrative penalty in the amount of One Thousand Seventy-Nine Dollars (\$1,079) 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 One Thousand Seventy-Nine Dollar (\$1,079) 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 One Thousand Seventy-Nine Dollars (\$1,079) as set forth in Section II, Paragraph 6, 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: Federal Bureau of Prisons, Docket No. 2008-1823-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. Immediately upon the effective date of this Agreed Order, begin collecting and submitting all required routine and repeat distribution coliform samples which are representative of the Facility, according to the Facility's microbiological monitoring plan, as required by 30 TEX. ADMIN. CODE § 290.109;
- b. Within 180 days after the effective date of this Agreed Order, comply with the coliform monitoring requirements and provide water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109; and
- c. 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 Nos. 2.a. and 2.b. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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:

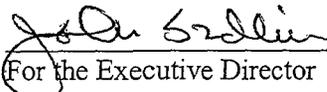
Water Section, Manager
Dallas/ Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth, Texas 76618-6951

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



For the Executive Director

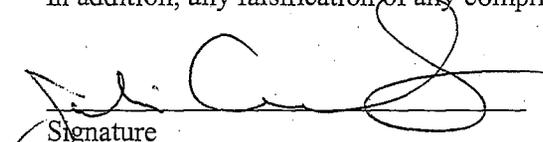
3/31/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Federal Bureau of Prisons. I am authorized to agree to the attached Agreed Order on behalf of Federal Bureau of Prisons, 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 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

2/20/09
Date

Julian Castaneda
Name (Printed or typed)
Authorized Representative of
Federal Bureau of Prisons

Safety Manager
Title

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

