

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0596-PWS-E **TCEQ ID:** RN101283109 **CASE NO.:** 37495
RESPONDENT NAME: Marie Braden dba Nana's Kitchen

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Nana's Kitchen, 106 Country Road 3014, Tow, Llano County</p> <p>TYPE OF OPERATION: Restaurant with a public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 31, 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 R-12, (713) 767-3672; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Marie Braden, Owner, Nana's Kitchen, 603 East 10th St, Cameron, Texas 76520 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 13, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 18, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to provide Facility disinfection records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(3)(B)(iii)].</p> <p>2) Failure to install disinfection equipment so that continuous and effective disinfection can be secured under all conditions [30 TEX. ADMIN. CODE § 290.42(e)(3)].</p> <p>3) Failure to maintain all potable water storage tanks and associated appurtenances in a watertight condition [30 TEX. ADMIN. CODE § 290.43(c)(6)].</p> <p>4) Failure to provide a minimum pressure tank capacity of 220 gallons [30 TEX. ADMIN. CODE § 290.45(d)(2)(B)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$562</p> <p>Total Deferred: \$112 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$150 (remaining \$300 due in 3 monthly payments of \$100 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility as of April 21, 2009:</p> <p>a. Removed the concrete ground storage tank and installed a 1,550 gallon storage tank;</p> <p>b. Installed a 119 gallon pressure tank; and</p> <p>c. Installed an automatic chlorinator system.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days, after the effective date of this Agreed Order, compile and begin maintaining a record of the disinfectant residual monitoring results; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 1500113



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned	23-Mar-2009			
PCW	15-Apr-2009	Screening	1-Apr-2009	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Marie Braden dba Nana's Kitchen		
Reg. Ent. Ref. No.	RN101283109		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37495	No. of Violations	4
Docket No.	2009-0596-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) 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

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

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

PAYABLE PENALTY

Screening Date 1-Apr-2009

Docket No. 2009-0596-PWS-E

PCW

Respondent Marie Braden dba Nana's Kitchen

Policy Revision 2 (September 2002)

Case ID No. 37495

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101283109

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)	1	5%
	Other written NOVs	4	8%
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	1	25%
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) 38%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement is due to one prior Notice of Violation ("NOV") with the same violation as the current enforcement action, four dissimilar NOVs, and one prior agreed final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 38%

Screening Date 1-Apr-2009 **Docket No.** 2009-0596-PWS-E **PCW**
Respondent Marie Braden dba Nana's Kitchen *Policy Revision 2 (September 2002)*
Case ID No. 37495 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101283109
Media [Statute] Public Water Supply
Enf. Coordinator Amanda Henry
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(B)(iii)
Violation Description Failed to provide Facility disinfection records to Commission personnel at the time of the investigation. Specifically, at the time of the record review, it was documented that during an investigation conducted on November 13, 2008, the Respondent failed to provide a record of the disinfectant residual monitoring results.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Release	Major	Moderate	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
			x	1%
At least 70% of the rule requirement was met.				

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1 19 Number of violation days

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

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	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 for this violation.

Violation Subtotal \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$14

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Marie Braden dba Nana's Kitchen
Case ID No. 37495
Reg. Ent. Reference No. RN101283109
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$100	13-Nov-2008	1-Nov-2009	0.97	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed costs include the amount to maintain, provide and make accessible all Facility operating records during the investigation. The date required is the date of the investigation initially documenting the violation. The final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 1-Apr-2009

Docket No. 2009-0596-PWS-E

PCW

Respondent Marie Braden dba Nana's Kitchen

Policy Revision 2 (September 2002)

Case ID No. 37495

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101283109

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>
N/A	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Marie Braden dba Nana's Kitchen
Case ID No. 37495
Reg. Ent. Reference No. RN101283109
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$100	13-Nov-2008	21-Apr-2009	0.44	\$0	\$3	\$3
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
 The delayed cost includes the labor costs to install disinfection equipment so that continuous disinfection can be secured under all conditions. The date required is the date of the investigation initially documenting the violation. The final date is the compliance date.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$3
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Screening Date 1-Apr-2009

Docket No. 2009-0596-PWS-E

PCW

Respondent Marie Braden dba Nana's Kitchen

Policy Revision 2 (September 2002)

Case ID No. 37495

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101283109

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Marie Braden dba Nana's Kitchen
Case ID No. 37495
Reg. Ent. Reference No. RN101283109
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
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,852	13-Nov-2008	21-Apr-2009	0.44	\$3	\$54	\$56
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
 The delayed cost includes the amount that the Respondent provided in an invoice to remove the cement storage tank (\$350), install a new 1,550 gallon storage tank (\$897) with associated valves and fittings (\$230) and associated labor costs (\$375). The date required is the date of the investigation initially documenting the violation. The final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,852	TOTAL	\$56
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Screening Date 1-Apr-2009 Docket No. 2009-0596-PWS-E PCW
 Respondent Marie Braden dba Nana's Kitchen Policy Revision 2 (September 2002)
 Case ID No. 37495 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101283109
 Media [Statute] Public Water Supply
 Enf. Coordinator Amanda Henry

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.45(d)(2)(B)(v) and Tex. Health & Safety Code § 341.0315 (c)

Violation Description Failed to provide a minimum pressure tank capacity of 220 gallons. Specifically, at the time of the record review, it was documented that the Facility provides a total of 205 gallons of pressure tank capacity. The system is required to provide a pressure tank capacity of 220 gallons, which is a 7% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Without sufficient pressure tank capacity, customers could be exposed to insignificant amounts of contaminants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 19 Number of violation days

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

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

	10.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent achieved compliance on April 21, 2009.

Violation Subtotal \$45

Economic Benefit (EB) for this violation

Estimated EB Amount \$35

Statutory Limit Test

Violation Final Penalty Total \$64

This violation Final Assessed Penalty (adjusted for limits) \$64

Economic Benefit Worksheet

Respondent Marie Braden dba Nana's Kitchen
Case ID No. 37495
Reg. Ent. Reference No. RN101283109
Media Public Water Supply
Violation No. 4

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,154	13-Nov-2008	21-Apr-2009	0.44	\$2	\$34	\$35
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
 The delayed cost includes the amount that the Respondent provided in an invoice to install a new 119 gallon pressure tank (\$778) and associated labor costs (\$375). The date required is the date of the investigation initially documenting the violation. The final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,154	TOTAL	\$35
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603059791 BRADEN, MARIE Classification: Rating:
Regulated Entity: RN101283109 NANAS KITCHEN Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1500113

Location: 106 Country Road 3014, Tow, Llano County, Texas

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: April 01, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 01, 2004 to April 01, 2009

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? No
N/A
5. When did the change(s) in owner or operator 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.

Effective Date: 03/19/2007

ADMINORDER 2006-1116-PWS-E

Classification: Moderate

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

Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of June 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of June 2005.

Classification: Moderate

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

Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of January 2003.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice of the failure to collect and submit the appropriate number of distribution samples during the month of January 2003.

Classification: Moderate

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

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to conduct routine bacteriological of the public water supply for the month of November 2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice for monitoring violations during the month of November 2005.

Classification: Moderate

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

Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of April 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of April 2006.

Classification: Moderate

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

Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of May 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of May 2006.

Classification: Moderate

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

Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of May 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice of the failure to collect and submit the appropriate number of distribution samples during the month of May 2006.

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	07/27/2005	(484171)
2	10/03/2005	(486665)
3	10/31/2005	(486694)
4	12/01/2005	(486703)
5	12/21/2005	(486715)
6	05/26/2006	(486719)
7	06/27/2006	(486725)
8	07/17/2006	(486985)
9	07/15/2007	(645277)
10	07/20/2007	(652542)
11	10/01/2007	(645913)
12	12/07/2007	(653146)
13	02/04/2008	(616818)
14	01/05/2009	(710193)
15	02/09/2009	(726473)
16	03/17/2009	(738621)

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

Date: 07/27/2005 (484171)

Self Report? NO

Classification: Moderate

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

Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of June 2005.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of June 2005.

Date: 12/21/2005 (486715)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to conduct routine bacteriological of the public water supply for the month of November 2004.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice for monitoring violations during the month of November 2005.

Date: 05/26/2006 (486719)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of April 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of April 2006.

Date: 06/27/2006 (486725)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: Failure to collect any repeat samples following each total coliform-positive sample found on a routine sample during the month of May 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of repeat samples during the month of May 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: Failure to collect at least five distribution samples the month following a total coliform-positive result during the month of May 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to provide public notice of the failure to collect and submit the appropriate number of distribution samples during the month of May 2006.

Date: 01/09/2009 (710193)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)
Description: The water system failed to maintain a record of operations. Specifically, there were no weekly records of the volume of water treated, the amount of sodium hypochlorite used or the residual disinfectant concentrations monitored.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)
Description: The water system failed to install disinfection equipment to provide continuous and effective disinfection.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(2)
Description: The water system failed to maintain a residual disinfectant concentration of at least 0.2 mg/l in the water entering the distribution system. A water sample collected from a hose bib at the rear of the restaurant had no detectable chlorine in the water.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)
Description: Potable water storage tanks shall be thoroughly tight against leakage. The water system's cement, ground storage tank has two leaks midway up the side wall of the tank.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v)

Description: The water system failed to provide a minimum of 220 gallons of pressure tank capacity. The system has a total of 205 gallons of pressure tank capacity which it receives from two pressure tanks, but only one of the tanks, a 119-gallon tank, provides pressure to the distribution system.

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
MARIE BRADEN DBA NANA'S
KITCHEN
RN101283109

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0596-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Marie Braden dba Nana's Kitchen ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a restaurant with a public water supply on 106 Country Road 3014, in Tow, Llano County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 23, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Five Hundred Sixty-Two Dollars (\$562) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Fifty Dollars (\$150) of the of the administrative penalty and One Hundred Twelve Dollars (\$112) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely

and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Hundred Dollars (\$300) of the administrative penalty shall be payable in three monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility as of April 21, 2009:
 - a. Removed the concrete ground storage tank and installed a 1,550 gallon storage tank;
 - b. Installed a 119 gallon pressure tank; and
 - c. Installed an automatic chlorinator system.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide Facility disinfection records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(B)(iii), as documented during a record review conducted on March 13, 2009.

2. Failed to install disinfection equipment so that continuous and effective disinfection can be secured under all conditions, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(3), as documented during a record review conducted on March 13, 2009.
3. Failed to maintain all potable water storage tanks and associated appurtenances in a watertight condition, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(6), as documented during a record review conducted on March 13, 2009.
4. Failed to provide a minimum pressure tank capacity of 220 gallons, in violation of 30 TEX. ADMIN. CODE § 290.45(d)(2)(B)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c) as documented during a record review conducted on March 13, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Marie Braden dba Nana's Kitchen, Docket No. 2009-0596-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days, after the effective date of this Agreed Order, compile and begin maintaining a record of the disinfectant residual monitoring results, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are

significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdinar
For the Executive Director

8/6/2009
Date

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

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

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

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

Marie Braden
Signature

7-1-09
Date

Marie Braden
Name (Printed or typed)
Authorized Representative of
Marie Braden dba Nana's Kitchen

OWNER
Title

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

