

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0485-PWS-E **TCEQ ID:** RN101418325 **CASE NO.:** 39396
RESPONDENT NAME: City of La Feria

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: City of La Feria Water Plant, located at Farm-to-Market Road 506 and Dodds Lane, La Feria, Cameron 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 August 23, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Steve Brewer, Mayor, City of La Feria, 115 East Commercial Avenue, La Feria, Texas 78559-5002 Mr. Sunny K. Philip, City Manager, City of La Feria, 115 East Commercial Avenue, La Feria, Texas 78559-5002 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: February 3, 2010</p> <p>Date of NOV/NOE Relating to this Case: February 5, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM"), based on a running annual average, during the third and fourth quarters of 2009 and failed to provide public notice of the TTHM exceedance to the customers of the Facility within 30 days after identifying the violation and to submit a copy of the notice to the Executive Director for the third quarter of 2009 within 10 days of providing public notice to the customers of the Facility [30 TEX. ADMIN. CODE §§ 290.113(f)(4), 290.122(b)(2), and 290.122(f) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p>	<p>Total Assessed: \$695</p> <p>Total Deferred: \$139 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$556</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 checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input 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:</p> <p>a. On February 1, 2010, the Respondent provided the customers of the Facility with public notice of the TTHM exceedance that occurred during the third quarter of 2009; and</p> <p>b. On March 30, 2010, the Respondent provided the Commission with a copy of the public notice provided to the customers of the Facility on February 1, 2010.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 365 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM, based on a running annual average; and</p> <p>b. Within 380 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID No. 0310003



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Mar-2010	Screening	24-Mar-2010	EPA Due	31-Aug-2010
	PCW	24-Mar-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of La Feria
Reg. Ent. Ref. No.	RN101418325
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39396	No. of Violations	1
Docket No.	2010-0485-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		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	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.	
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Compliance History	39.0% Enhancement	Subtotals 2, 3, & 7	\$195
Notes	The enhancement is due to three prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action, two prior NOVs containing dissimilar violations, and one prior final agreed order containing a denial of liability.		

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
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Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
Total EB Amounts	\$844	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$6,085		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$695
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes		Final Penalty Amount	\$695
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$695
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DEFERRAL	20.0% Reduction	Adjustment	-\$139
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes	Deferral offered for expedited settlement.		
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PAYABLE PENALTY	\$556
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Screening Date: 24-Mar-2010

Docket No: 2010-0485-PWS-E

PCW

Respondent: City of La Feria

Policy Revision 2 (September 2002)

Case ID No: 39396

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101418325

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

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)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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) 39%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The enhancement is due to three prior Notices of Violation (NOVs) containing violations that are the same as the violations in the current enforcement action, two prior NOVs containing dissimilar violations, and one prior final agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 39%

Screening Date: 24-Mar-2010

Docket No.: 2010-0485-PWS-E

PCW

Respondent: City of La Ferla

Policy Revision 2 (September 2002)

Case ID No.: 39396

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101418325

Media [Statute]: Public Water Supply

Enf. Coordinator: Rebecca Clausewitz

Violation Number: 1

Rule Cite(s): 30 Tex. Admin. Code §§ 290.113(f)(4), 290.122(b)(2), and 290.122(f) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a running annual average, during the third and fourth quarters of 2009 and failed to provide public notice of the third quarter 2009 TTHM exceedance to the customers of the Facility within 30 days after identifying the violation and to submit a copy of the notice to the Executive Director within 10 days of providing public notice to the customers of the Facility. Specifically, the TTHM running annual average was reported to be 0.081 mg/L for the third quarter of 2009 and 0.103 mg/L for the fourth quarter of 2009. Additionally, public notice of the exceedance that occurred during third quarter of 2009 should have been provided to the customers of the Facility no later than November 22, 2009 and to the Commission no later than December 2, 2009. The customers were provided notice of the exceedance on February 1, 2010 and the Commission was provided a copy of the notice on March 30, 2010.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Exceeding the MCL for TTHM has caused the customers of the Facility to be exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment: \$500

\$500

Violation Events

Number of Violation Events: 1 Number of violation days: 183

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty: \$500

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal: \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$844

Violation Final Penalty Total: \$695

This violation Final Assessed Penalty (adjusted for limits): \$695

Economic Benefit Worksheet

Respondent: City of La Feria
Case ID No.: 39396
Reg. Ent. Reference No.: RN101418325
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
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)	\$1,085	22-Nov-2009	30-Mar-2010	0.35	\$1	\$25	\$27
Engineering/construction	\$5,000	1-Jul-2009	31-Oct-2011	2.33	\$39	\$778	\$817
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 other delayed costs include the estimated amount to provide public notices to the customers of the Facility and a copy to the TCEQ, calculated from the date that notices should have been provided to the date of compliance. The construction delayed costs include the estimated amount to relocate the disinfection injection point at the surface water treatment plant to address the TTHM exceedances, calculated from the first day of the first quarter that the TTHM exceedances occurred, to 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:

\$6,085

TOTAL

\$844

Compliance History Report

Customer/Respondent/Owner-Operator: CN600520845 City of La Feria Classification: AVERAGE Rating: 8.28
Regulated Entity: RN101418325 City of La Feria Water Plant Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0310003
WATER LICENSING LICENSE 0310003
Location: Farm-to-Market Road 506 and Dodds Lane, La Feria, Cameron County, TX
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: March 25, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 24, 2005 to March 24, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/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) ? 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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/06/2008

ADMINORDER 2008-0412-PWS-E

Classification: Moderate

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

Description: Failure to ensure that each water treatment plant and all appurtenances are enclosed by an intruder-resistant fence. Specifically, the liquid ammonium sulfate, the potassium permanganate day tanks, and the associated chemical feed equipment, which are located at the City's wastewater treatment facility, are enclosed only by a livestock fence that is not intruder-resistant.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate flow measuring devices and rate-of-flow controllers at least once every 12 months. Specifically, on the date of the investigation, it was observed that the backwash flow meter had not been calibrated in the last twelve months.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide additional metering devices as appropriate to monitor the flow rate through specific treatment processes. Specifically, the City's raw water treatment process has two treatment trains, and flow measuring devices were not installed on both treatment trains.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(IV)

Description: Failure to ensure incompatible chemicals are not stored within the same containment structure. On the date of the investigation, the Alum/Polymer blend storage tank and the caustic solution were being stored in the same containment structure.

Classification: Minor

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

Description: Failure to ensure all facilities for potable water storage are covered and designed, fabricated, erected,

tested, and disinfected in strict accordance with current American Water Works Association (AWWA) standards. Specifically, the two clearwells at the facility did not have overflows installed.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)
30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain a disinfectant residual of at least 0.5 mg/L total chlorine throughout the distribution system at all times. Specifically, a field test performed at the time of the investigation revealed a total chlorine residual of 0.14 mg/L at 26773 South Palomino Street.

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

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

1	11/09/2005	(433983)
2	10/31/2006	(513576)
3	02/13/2008	(615538)
4	02/27/2009	(736800)
5	10/23/2009	(790753)
6	12/28/2009	(791366)
7	02/25/2010	(791618)

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

Date: 10/30/2006 (513576) CN600520845
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(15)(C)(vii)
Description: Failure to provide appropriate laboratory facilities for controls as well as for checking the effectiveness of disinfection or any other treatment processes employed.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.42(m)
30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance. This program should include the south section of the intruder resistant fence of the water treatment plant.

Date: 02/27/2009 (736800) CN600520845
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to ensure the good working condition and general appearance of the system's facilities and equipment.

Date: 10/23/2009 (790753) CN600520845
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Exceeded the maximum contaminant level for total trihalomethanes during the third quarter of 2009.

Date: 12/28/2009 (791366) CN600520845
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Exceeded the maximum contaminant level for total trihalomethanes during the fourth quarter of 2009.

Date: 02/05/2010 (790753) CN600520845
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Failure to provide public notice to the customers of the water system and failure to submit a copy of the public notice to the TCEQ for the exceedance of the maximum contaminant level for total trihalomethanes during the third quarter of 2009 in a timely manner.

- 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
CITY OF LA FERIA
RN101418325

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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0485-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 City of La Feria ("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 public water supply at Farm-to-Market Road 506 and Dodds Lane in La Feria, Cameron County, Texas (the "Facility") that has approximately 2,170 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 10, 2010.
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 Six Hundred Ninety-Five Dollars (\$695) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Fifty-Six Dollars (\$556) of the administrative penalty and One Hundred Thirty-Nine Dollars (\$139) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On February 1, 2010, the Respondent provided the customers of the Facility with public notice of the total trihalomethanes ("TTHM") exceedance that occurred during the third quarter of 2009; and
 - b. On March 30, 2010, the Respondent provided the Commission with a copy of the public notice provided to the customers of the Facility on February 1, 2010.
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 exceeded the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for TTHM, based on a running annual average, during the third and fourth quarters of 2009 and failed to provide public notice of the TTHM exceedance to the customers of the Facility within 30 days after identifying the violation and to submit a copy of the notice to the Executive Director for the third quarter of 2009 within 10 days of providing public notice to the customers of the Facility, in violation of 30 TEX. ADMIN. CODE §§ 290.113(f)(4), 290.122(b)(2), and 290.122(f) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during a record review conducted on February 3, 2010.

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: City of La Feria, Docket No. 2010-0485-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 365 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM, based on a running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.113.
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

DBP Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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



For the Executive Director

Date 9/21/2010

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

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

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

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



Signature

Date 6-18-2010

SUNNY K. PHILIP

Name (Printed or typed)
Authorized Representative of
City of La Feria

Title CITY MANAGER

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.

