

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1943-PWS-E **TCEQ ID:** RN105449151 **CASE NO.:** 35654
RESPONDENT NAME: Feron Corporation dba Zebra Show Bar

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: Zebra Show Bar, 7700 South Desert Boulevard, Anthony, El Paso County</p> <p>TYPE OF OPERATION: 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 May 17, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Manuel Hernandez, President, Feron Corporation, 2415 Montana Avenue, El Paso, Texas 79903 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 8, 2009</p> <p>Date of NOV/NOE Relating to this Case: November 16, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to develop and maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN. CODE § 290.121(a) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.b.ii].</p> <p>2) Failure to conduct a physical and chemical analysis of water produced from a new well [30 TEX. ADMIN. CODE § 290.41(c)(3)(G) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.i].</p> <p>3) Failure to seal the wellhead with a gasket or sealing compound [30 TEX. ADMIN. CODE § 290.41(c)(3)(K) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.iv].</p> <p>4) Failure to properly install an air release device on the discharge piping of the well in such a manner to preclude the possibility of submergence or entrance of contaminants [30 TEX. ADMIN. CODE § 290.41(c)(3)(Q) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.v].</p> <p>5) Failure to provide water system records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2), 290.46(f)(3)(B)(iii), and 290.46(f)(3)(D)(i) and TCEQ Agreed</p>	<p>Total Assessed: \$16,448</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 (Due) to General Revenue: \$464 (remaining \$15,984 due in 36 monthly payments of \$444 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>Findings Orders Justification: This case involves the violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</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 January 7, 2010, repaired the three-foot gap in the fence;</p> <p>b. On February 3, 2010, sealed the well's top plate with a gasket or sealing compound; and</p> <p>c. On February 3, 2010, installed a new piping system that removed the air release device and covered the air release device opening with a 16-mesh or finer corrosion-resistant screening material.</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:</p> <p>i. Compile and begin maintaining an up-to-date chemical and microbiological monitoring plan;</p> <p>ii. Complete a physical and chemical analysis of the water produced from the well;</p> <p>iii. Compile and begin maintaining properly completed monthly water works operation records and maintenance records, including but not limited to disinfection residual monitoring results and microbiological analysis records, and make them available at the time of Commission inspections;</p> <p>iv. Conduct the annual inspections for the three pressure tanks and one ground storage tank; and</p> <p>v. Begin maintaining engineering plans, specifications, maps, and other pertinent information on file and make these records available upon the request of the Executive Director.</p>

<p>Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.vii].</p> <p>6) Failure to maintain plans, specifications, maps, and other pertinent information on file [30 TEX. ADMIN. CODE § 290.46(n) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.viii].</p> <p>7) Failure to conduct an annual inspection of the ground storage tank [30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ix].</p> <p>8) Failure to conduct annual inspections of the three pressure tanks [30 TEX. ADMIN. CODE § 290.46(m)(1)(B) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ix].</p> <p>9) Failure to properly cover the air release device in the middle of the discharge line with a 16-mesh or finer corrosion-resistant screen to preclude the possibility of submergence or entrance of contaminants [30 TEX. ADMIN. CODE § 290.42(b)(7) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ii].</p> <p>10) Failure to locate the water line a minimum of 24 inches below the ground surface [30 TEX. ADMIN. CODE § 290.44(a)(4) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.iii].</p> <p>11) Failure to obtain approval by the Executive Director for the construction of a public water system [30 TEX. ADMIN. CODE §§ 290.40(a) and 290.46(a), TEX. HEALTH & SAFETY CODE § 341.035(a), and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.e.iv].</p> <p>12) Failure to enclose the well with an intruder-resistant fence or lockable ventilated well house [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].</p> <p>13) Failure to locate the Facility's well at least 150 feet away from a septic tank perforated drainfield [30 TEX. ADMIN. CODE § 290.41(c)(1)(A)].</p>		<p>b. Within 45 days after the effective of this Agreed Order, submit written certification and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 180 days after the effective date of this Agreed Order, ensure the top of the waterline running from the well to the parking lot of the building is located at least 24 inches below ground surface;</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit accurate up-to-date detailed as-built plans and specifications for review and approval;</p> <p>Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the as-built plans and specifications within 15 days after the date of such requests, or by any other deadline specified in writing;</p> <p>e. Within 180 days after the effective date of this Agreed Order, ensure that the well is at least 150 feet away from a septic tank perforated drainfield; or</p> <p>Obtain Commission approval of an exception to the distance requirement for well placement, including the requirement that all wells be located a minimum of 150 feet from a feet away from a septic tank; and</p> <p>f. 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 c, d, and e.</p>
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Nov-2009	Screening	1-Dec-2009	EPA Due	1-Sep-2010
	PCW	10-Feb-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Feron Corporation dba Zebra Show Bar
Reg. Ent. Ref. No.	RN105449151
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35654	No. of Violations	13
Docket No.	2009-1943-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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 **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **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-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to one prior agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar

Case ID No. 35654

Reg. Ent. Reference No. RN105449151

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	\$200	17-Nov-2008	1-Aug-2010	1.70	\$17	n/a	\$17
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 estimated amount to prepare and begin maintaining a chemical and microbiological monitoring plan for the Facility, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$17

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and TCEQ Agreed Order Docket No. 2008-0546-PWS E, Ordering Provision 2.b.ii

Violation Description Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

379 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary	
Ordinary	
N/A	X (mark with x)

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$123

This violation Final Assessed Penalty (adjusted for limits) \$123

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(G) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.i

Violation Description Failed to conduct a physical and chemical analysis of water produced from a new well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes Failing to conduct a physical and chemical analysis of water produced from a new well could expose customers to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 13 Number of violation days 379

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,250

Thirteen monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

	0.0%	Reduction	
	Before NOV	NOV to EDRP/ 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 \$3,250

Economic Benefit (EB) for this violation

Estimated EB Amount \$60

Statutory Limit Test

Violation Final Penalty Total \$4,007

This violation Final Assessed Penalty (adjusted for limits) \$4,007

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 2

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)	\$500	17-Nov-2008	1-Aug-2010	1.70	\$3	\$57	\$60
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 estimated amount to conduct a physical and chemical analysis of the water, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500 **TOTAL** \$60

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(K) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.iv

Violation Description

Failed to seal the wellhead with a gasket or sealing compound. Specifically, at the time of the investigation, it was noted that the well's top plate had gaps that were not sealed properly.

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

Failure to seal the wellhead with a gasket or sealing compound could allow contaminants into the water supply and expose customers to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$650

\$50

Violation Events

Number of Violation Events 1 Number of violation days 379

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an X

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

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

Notes

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

\$0

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$62

This violation Final Assessed Penalty (adjusted for limits) \$62

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 36654
Reg. Ent. Reference No. RN105449151
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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	17-Nov-2008	3-Feb-2010	1.21	\$0	\$4	\$4
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 to seal the wellhead, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$50	TOTAL	\$4
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Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 36654

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(Q) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.v

Violation Description

Failed to properly install an air release device on the discharge piping of the well in such a manner to preclude the possibility of submergence or entrance of contaminants. Specifically, at the time of the investigation, it was noted that the air release device was installed in the middle of the discharge pipe which was suspended over a ditch prone to flooding.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failing to install an air release device not subject to flooding could expose customers of the water supply to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 5 Number of violation days 379

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Five quarterly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRRP/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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$616

This violation Final Assessed Penalty (adjusted for limits) \$616

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
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

Equipment	\$200	17-Nov-2008	3-Feb-2010	1.21	\$1	\$16	\$17
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 estimated amount to properly relocate the air release device, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$200	TOTAL	\$17
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Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Eplfanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2), 290.46(f)(3)(B)(iii), and 290.46(f)(3)(D)(i), and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.vii

Violation Description Failed to provide water system records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, it was noted that the disinfectant residual monitoring results and microbiological analyses were not available for review.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

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

Adjustment \$900

\$10

Violation Events

Number of Violation Events 1 Number of violation days 379

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

\$0

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 \$43

Violation Final Penalty Total \$12

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

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	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	\$500	17-Nov-2008	1-Aug-2010	1.70	\$43	n/a	\$43
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 estimated amount to develop a record-keeping system for the microbiological analysis and disinfectant residual monitoring results, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the estimated date of compliance.

Avoided Costs

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

	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 \$500

TOTAL \$43

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35854

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.viii

Violation Description

Failed to maintain plans, specifications, maps, and other pertinent information on file. Specifically, at the time of the investigation, it was noted that the Respondent did not have water supply plans, well completion data, and a map of the distribution system available for Commission review.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

	1	379	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

	0.0%	Reduction
	Before NOV	NOV to EDRP/ Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with X)

\$0

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Estimated EB Amount \$596

Statutory Limit Test

Violation Final Penalty Total \$123

This violation Final Assessed Penalty (adjusted for limits) \$123

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$5,000	17-Nov-2008	1-Aug-2010	1.70	\$28	\$568	\$596
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 estimated amount to prepare and maintain plans, specifications, maps and other pertinent information on file, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,000	TOTAL	\$596
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Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(A) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ix

Violation Description Failed to conduct an annual inspection of the ground storage tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Complete failure to perform an inspection of the ground storage tank could result in non-detection of a tank defect that causes loss of tank integrity, which could expose customers of the water supply to significant amounts of contaminants that would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

2 379 Number of violation days

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

Violation Base Penalty \$200

Two annual events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

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

\$0

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$110

Violation Final Penalty Total \$247

This violation Final Assessed Penalty (adjusted for limits) \$247

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449161
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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]	\$100	17-Nov-2008	1-Dec-2008	1.96	\$10	\$100	\$110
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct the annual ground storage tank inspection, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E to the date of screening.

Approx. Cost of Compliance

\$100

TOTAL

\$110

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(B) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ix

Violation Description

Failed to conduct annual inspections of the three pressure tanks.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Complete failure to perform an inspection of the pressure tank could result in non-detection of a tank defect that causes loss of tank integrity, which could expose customers of the water supply to significant amounts of contaminants that would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 6

379 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$1,600

Six annual events are recommended (Two annual events per pressure tank) from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

\$0

Notes

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$329

Violation Final Penalty Total \$1,849

This violation Final Assessed Penalty (adjusted for limits) \$1,849

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 8

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]	\$300	17-Nov-2008	1-Dec-2009	1.98	\$29	\$300	\$329
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct the annual pressure tank inspections, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E to the date of screening.

Approx. Cost of Compliance

\$300

TOTAL

\$329

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 290.42(b)(7) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.e.ii

Violation Description

Failed to properly cover the air release device in the middle of the discharge line with a 16-mesh or finer corrosion-resistant screen to preclude the possibility of submergence or entrance of contaminants.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		X		

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

Matrix Notes

Failing to properly cover the air release device could expose the system to a significant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$600

\$100

Violation Events

Number of Violation Events 5 Number of violation days 379

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

Violation Base Penalty \$500

Five quarterly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

	0.0%	Reduction	
	Before NOV	NOV to EDRP/ 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 \$500

Economic Benefit (EB) for this violation

Estimated EB Amount \$2

Statutory Limit Test

Violation Final Penalty Total \$616

This violation Final Assessed Penalty (adjusted for limits) \$618

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	17-Nov-2008	3-Feb-2010	1.21	\$0	\$2	\$2
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 costs include the estimated amount to properly cover the air release device with a 16-mesh or finer corrosion-resistant screen, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$2

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 290.44(a)(4) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.e.iii

Violation Description

Failed to locate the water line a minimum of 24 inches below the ground surface. Specifically, at the time of the investigation, it was noted that the water line running from the well to the parking lot of the building was exposed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Failing to locate the water line at least 24 inches below ground surface could result in line breaks and could impair the system's ability to provide a safe and adequate water supply exposing customers to a significant amount of contaminants that would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 13 Number of violation days 379

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

Violation Base Penalty \$3,250

Thirteen monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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

Violation Subtotal \$3,250

Economic Benefit (EB) for this violation

Estimated EB Amount \$149

Statutory Limit Test

Violation Final Penalty Total \$4,007

This violation Final Assessed Penalty (adjusted for limits) \$4,007

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	17-Nov-2008	1-Jan-2011	2.12	\$7	\$142	\$149
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 estimated amount to bury the water line a minimum of 24 inches, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$1,000
TOTAL \$149

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

V11 11

Rule Cite(s) 30 Tex. Admin. Code §§ 290.40(a) and 290.46(a), Tex. Health & Safety Code § 341.035(a), and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.e.iv

Violation Description Failed to obtain approval by the Executive Director for the construction of a public water system. Specifically, the Respondent failed to submit plans and specifications in response to a letter dated July 12, 2007. To date, the Respondent has not resubmitted plans and specifications.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential	x				

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

Matrix Notes Failing to obtain approval from the Commission for the well could expose customers of the water supply to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 13 379 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,250

Thirteen monthly events are recommended from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, November 17, 2008, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Reduction	
	Before NOV	NOV to EDRP/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 \$3,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$743

Violation Final Penalty Total \$4,007

This violation Final Assessed Penalty (adjusted for limits) \$4,007

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 36654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	17-Nov-2008	1-Jan-2011	2.12	\$35	\$708	\$743
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 estimated amount to prepare and submit as-built plans and specifications for Commission review and approval, calculated from the effective date of TCEQ Agreed Order Docket No. 2008-0546-PWS-E, to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$743

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 12

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(O)

Violation Description

Failed to enclose the well with an intruder-resistant fence or lockable ventilated well house. Specifically, at the time of the investigation, it was documented that a three foot gap was observed in the fence that surrounded the well house.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Palsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide an intruder-resistant fence for the wells and ground storage tanks could expose customers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

55 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended, from the date of the investigation, October 8, 2009, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRFP/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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$123

This violation Final Assessed Penalty (adjusted for limits) \$123

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 36654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 12

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)	\$200	8-Oct-2009	7-Jan-2010	0.25	\$0	\$3	\$3
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 costs include the estimated amount to render the fence intruder-resistant, calculated from the date of the investigation to the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$200
TOTAL \$3

Screening Date 1-Dec-2009

Docket No. 2009-1943-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 35654

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 13

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(A)

Violation Description Failed to locate the Facility's well at least 150 feet away from a septic tank perforated drainfield. Specifically, it was documented that the distance from the well to the septic tank perforated drainfield was 137 feet.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Failure to locate the well at least 150 feet from a septic tank perforated drainfield could result in contamination of the water supply and/or exposure of customers to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 55

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

Violation Base Penalty \$500

Two monthly events are recommended, from the date of the investigation, October 8, 2009, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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 \$5,178

Violation Final Penalty Total \$616

This violation Final Assessed Penalty (adjusted for limits) \$616

Economic Benefit Worksheet

Respondent Feron Corporation dba Zebra Show Bar
Case ID No. 35654
Reg. Ent. Reference No. RN105449151
Media Public Water Supply
Violation No. 13

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$60,000	8-Oct-2009	1-Jan-2011	1.23	\$247	\$4,932	\$5,178
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 costs include the estimated amount to drill a new well to ensure it is located at least 150 feet away from the septic tank perforated drainfield, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

	\$60,000
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TOTAL	\$5,178
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN603317199 Feron Corporation	Classification:	Rating:
Regulated Entity:	RN105449151 ZEBRA SHOW BAR	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION		0710189
Location:	7700 S DESERT BLVD, ANTHONY, EL PASO COUNTY, TX		
TCEQ Region:	REGION 06 - EL PASO		
Date Compliance History Prepared:	December 1, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 1, 2004 to December 1, 2009		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Epi Villarreal Phone: 361-825-3425

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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 judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 11/17/2008 ADMINORDER 2008-0546-PWS-E
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
- Description: Failed to provide a sanitary control easement that covers the land within 150 feet of the well.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(G)
- Description: Failed to conduct a physical and chemical analysis of water produced from a new well.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
- Description: Failed to seal the wellhead with a gasket or sealing compound.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)
- Description: Failed to provide a suitable sampling cock on the discharge pipe of the well pump.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
- Description: Failed to properly install an air-release device on the discharge piping of the well in such a manner to preclude the possibility of submergence or entrance of contaminants.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(6)
- Description: Failed to provide a proper sampling tap for the raw water.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(7)
- Description: Failed to properly cover the air release device in the middle of the discharge line with a 16-mesh or finer corrosion-resistant screen to preclude the possibility of submergence or entrance of contaminants.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
- Description: Failed to use an approved chemical or media for the disinfection of potable water that conforms to American National Standards/National Sanitation Foundation ("ANSI/NSF") standards.
- Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)
30 TAC Chapter 290, SubChapter D 290.43(c)(2)
30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failed to maintain the facility's storage tank in strict accordance with current American Water Works Association ("AWWA") standards.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)
Description: Failed to provide the three pressure tanks with pressure release devices.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)
Description: Failed to locate the water line a minimum of 24 inches below the ground surface.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.40(a)
30 TAC Chapter 290, SubChapter D 290.46(a)
5A THSC Chapter 341, SubChapter A 341.035(a)

Description: Failed to obtain approval by the Executive Director for the construction of a public water system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(1)
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to operate the disinfection equipment to maintain a disinfectant residual of at least 0.2 mg/l. of free chlorine throughout the distribution system at all times.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(III)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)

Description: Failed to provide water system records to Commission personnel at the time of the investigation.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failed to conduct an annual inspection of the ground storage tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
Description: Failed to maintain plans, specifications, maps, and other pertinent information on file.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(1)
Description: Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
Description: Failed to ensure that all water system electrical wiring is securely installed in compliance with a local or national electrical code.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
Description: Failed to measure the free chlorine residual within the distribution system with a colorimeter, spectrophotometer, or color comparator test kit which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failed to conduct an annual inspections of the three pressure tanks.

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 05/19/2009 (745573)

2 11/16/2009 (778730)

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

N/A

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
FERON CORPORATION DBA ZEBRA
SHOW BAR
RN105449151

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2009-1943-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 Feron Corporation dba Zebra Show Bar ("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.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

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 public water supply at 7700 South Desert Boulevard in Anthony, El Paso 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. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not develop and maintain an up-to-date chemical and microbiological monitoring plan.
3. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not conduct a physical and chemical analysis of water produced from a new well.
4. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not seal the wellhead with a gasket or sealing compound. Specifically, at the time of the investigation, it was noted that the well's top plate had gaps that were not sealed properly.
5. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not properly install an air release device on the discharge piping of the well in such a manner to preclude the possibility of submergence or entrance of contaminants. Specifically, at the time of the investigation, it was noted that the air release device was installed in the middle of the discharge pipe which was suspended over a ditch prone to flooding.
6. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not provide water system records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, it was noted that the disinfectant residual monitoring results and microbiological analyses were not available for review.
7. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not maintain plans, specifications, maps, and other pertinent information on file. Specifically, at the time of the investigation, it was noted that the Respondent did not have water supply plans, well completion data, and a map of the distribution system available for Commission review.
8. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not conduct an annual inspection of the ground storage tank.
9. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not conduct annual inspections of the three pressure tanks.
10. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not properly cover the air release device in the middle of the discharge line with a 16-mesh or finer corrosion-resistant screen to preclude the possibility of submergence or entrance of contaminants.
11. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not locate the water line a minimum of 24 inches below the ground surface. Specifically, at the time of the investigation, it was noted that the water line running from the well to the parking lot of the building was exposed.

12. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not obtain approval by the Executive Director for the construction of a public water system. Specifically, the Respondent failed to submit plans and specifications in response to a letter dated July 12, 2007. To date, the Respondent has not resubmitted plans and specifications.
13. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not enclose the well with an intruder-resistant fence or lockable ventilated well house. Specifically, at the time of the investigation, it was documented that a three-foot gap was observed in the fence that surrounded the well house.
14. During an investigation conducted on October 8, 2009, TCEQ staff documented that the Respondent did not locate the Facility's well at least 150 feet away from a septic tank perforated drainfield. Specifically, it was documented that the distance from the well to the septic tank perforated drainfield was 137 feet.
15. The Respondent received notice of the violations on November 18, 2009.
16. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On January 7, 2010, repaired the three-foot gap in the fence;
 - b. On February 3, 2010, sealed the well's top plate with a gasket or sealing compound; and
 - c. On February 3, 2010, installed a new piping system that removed the air release device and covered the air release device opening with a 16-mesh or finer corrosion-resistant screening material.

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, the Respondent failed to develop and maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.b.ii.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to conduct a physical and chemical analysis of water produced from a new well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(G) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.i.
4. As evidenced by Findings of Fact No. 4, the Respondent failed to seal the wellhead with a gasket or sealing compound, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.iv.

5. As evidenced by Findings of Fact No. 5, the Respondent failed to properly install an air release device on the discharge piping of the well in such a manner to preclude the possibility of submergence or entrance of contaminants, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(Q) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.v.
6. As evidenced by Findings of Fact No. 6, the Respondent failed to provide water system records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), 290.46(f)(3)(B)(iii), and 290.46(f)(3)(D)(i), and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.vii.
7. As evidenced by Findings of Fact No. 7, the Respondent failed to maintain plans, specifications, maps, and other pertinent information on file, in violation of 30 TEX. ADMIN. CODE § 290.46(n) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.viii.
8. As evidenced by Findings of Fact No. 8, the Respondent failed to conduct an annual inspection of the ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ix.
9. As evidenced by Findings of Fact No. 9, the Respondent failed to conduct annual inspections of the three pressure tanks, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ix.
10. As evidenced by Findings of Fact No. 10, the Respondent failed to properly cover the air release device in the middle of the discharge line with a 16-mesh or finer corrosion-resistant screen to preclude the possibility of submergence or entrance of contaminants, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(7) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.ii.
11. As evidenced by Findings of Fact No. 11, the Respondent failed to locate the water line a minimum of 24 inches below the ground surface, in violation of 30 TEX. ADMIN. CODE § 290.44(a)(4) and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.iii.
12. As evidenced by Findings of Fact No. 12, the Respondent failed to obtain approval by the Executive Director for the construction of a public water system, in violation of 30 TEX. ADMIN. CODE §§ 290.40(a) and 290.46(a), TEX. HEALTH & SAFETY CODE § 341.035(a), and TCEQ Agreed Order Docket No. 2008-0546-PWS-E, Ordering Provision 2.c.iv.
13. As evidenced by Findings of Fact No. 13, the Respondent failed to enclose the well with an intruder-resistant fence or lockable ventilated well house, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O).
14. As evidenced by Findings of Fact No. 14, the Respondent failed to locate the Facility's well at least 150 feet away from a septic tank perforated drainfield, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(A).

15. 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.
16. An administrative penalty in the amount of Sixteen Thousand Four Hundred Forty-Eight Dollars (\$16,448) 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 Four Hundred Sixty-Four Dollars (\$464) of the administrative penalty. The remaining amount of Fifteen Thousand Nine Hundred Eighty-Four Dollars (\$15,984) of the administrative penalty shall be payable in 36 monthly payments of Four Hundred Forty-Four Dollars (\$444) 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

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 Sixteen Thousand Four Hundred Forty-Eight Dollars (\$16,448) as set forth in Section II, Paragraph 16 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: Feron Corporation dba Zebra Show Bar, Docket No. 2009-1943-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. Within 30 days after the effective date of this Agreed Order:

- i. Compile and begin maintaining an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121;
 - ii. Complete a physical and chemical analysis of the water produced from the well, in accordance with 30 TEX. ADMIN. CODE § 290.41;
 - iii. Compile and begin maintaining properly completed monthly water works operation records and maintenance records, including but not limited to disinfection residual monitoring results and microbiological analysis records, and make them available at the time of Commission inspections, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iv. Conduct the annual inspections for the three pressure tanks and one ground storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - v. Begin maintaining engineering plans, specifications, maps, and other pertinent information on file and make these records available upon the request of the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.46;
- b. Within 45 days after the effective of this Agreed Order, submit written certification as described below in Ordering Provision 2.f, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a;
 - c. Within 180 days after the effective date of this Agreed Order, ensure the top of the waterline running from the well to the parking lot of the building is located at least 24 inches below ground surface, in accordance with 30 TEX. ADMIN. CODE § 290.44;
 - d. Within 180 days after the effective date of this Agreed Order, submit accurate up-to-date detailed as-built plans and specifications for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.46.

The plans shall be submitted to:

Water Supply Division
Utility Creation & Plan Review Team, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the as-built plans and specifications within 15 days after the date of such requests, or by any other deadline specified in writing;

- e. Within 180 days after the effective date of this Agreed Order, ensure that the well is at least 150 feet away from a septic tank perforated drainfield, in accordance with 30 TEX. ADMIN. CODE § 290.41; or

Obtain Commission approval of an exception to the distance requirement for well placement, including the requirement that all wells be located a minimum of 150 feet from a feet away from a septic tank perforated drainfield, in accordance with 30 TEX. ADMIN. CODE § 290.39.

Exception requests shall be submitted to:

Texas Commission on Environmental Quality
Water Supply Division, Technical Review & Oversight Team
P. O. Box 13087, MC-155
Austin, Texas 78711-3087

- f. 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 Provisions 2.c, 2.d, and 2.e. 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
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

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 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.
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

John S. Sullivan
For the Executive Director

5/7/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Feron Corporation dba Zebra Show Bar. I am authorized to agree to the attached Agreed Order on behalf of Feron Corporation dba Zebra Show Bar, 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 understand that by entering into this Agreed Order, Feron Corporation dba Zebra Show Bar waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Manuel Hernandez
Signature

9 Mar 10
Date

Manuel Hernandez
Name (Printed or typed)
Authorized Representative of
Feron Corporation dba Zebra Show Bar

President
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.

