

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1210-PWS-E RN101185312 CASE NO.: 38046
RESPONDENT NAME: CANDELARIA WATER SUPPLY CORPORATION

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 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

SITE WHERE VIOLATIONS OCCURRED: 58 miles north of Presidio on Farm-to-Market 170, Presidio County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired September 6, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717

TCEQ Regional Contact: Mr. Kent Waggoner, El Paso Regional Office, MC R-6, (915) 834-4957

Respondent: Mr. Guadalupe Jimenez, President, Candelaria Water Supply Corporation, HC 63 Box 36, Marfa, Texas 79843

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

DOCKET NO.: 2009-1210-PWS-E

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 checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: June 4, 2009, and June 24, 2009</p> <p>Dates of NOEs Relating to this Case: July 7, 2009, and August 7, 2009</p> <p>Background Facts: The EDRP was filed on December 30, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on August 8, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation certifying compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to operate the disinfection equipment to maintain a free chlorine residual of at least 0.2 milligrams per liter (“mg/L”) free chlorine or 0.5 mg/L chloramine throughout the distribution system [30 TEX. ADMIN. CODE § 290.46(d)(2)]. Failed to issue a boil water notification within 24 hours of a failure to maintain adequate chlorine residual using the prescribed notification format specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1)]. Failed to collect routine distribution water samples for coliform analysis, and failed to provide a public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)]. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive sample result on a routine sample collection, and failed to provide a public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A) and 290.122(c)(2)(A)]. Failed to collect a minimum of five distribution coliform samples the month following a total coliform positive sample result, and failed to provide a public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)]. 	<p>Total Assessed: \$7,923</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$223/\$7,700</p> <p>Respondent paid \$223 of the administrative penalty. The remaining amount of \$7,700 shall be payable in 35 monthly payments of \$220 each.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: More than three enforcement actions for the same violations in the preceding five-year period.</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately begin operating the Facility’s chlorination facilities to maintain a free chlorine residual of 0.2 mg/L in the far reaches of the distribution system at all times. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision No. 1. Within 30 days, develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to the customers of the water system in the event of distribution pressure below 20 pounds per square inch water outages, positive microbial samples, low chlorine residuals, or other conditions which indicate that the potability of the water may be compromised. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision No. 4.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Jul-2009			
	PCW	29-Jul-2009	Screening	29-Jul-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Candelaria Water Supply Corporation				
Reg. Ent. Ref. No.	RN101185312				
Facility/Site Region	6-El Paso	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	38046	No. of Violations	5		
Docket No.	2009-1210-PWS-E	Order Type	Findings		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Tel Croston		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$1,000	

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 29-Jul-2009

Docket No. 2009-1210-PWS-E

PCW

Respondent Candelaria Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 38046

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101185312

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

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 (<i>number of NOVs meeting criteria</i>)	14	70%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 78%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement is due to 14 prior Notices of Violation ("NOV") with the same or similar violations as those in the current enforcement action and four NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 78%

Screening Date 29-Jul-2009 **Docket No.** 2009-1210-PWS-E **PCW**
Respondent Candelaria Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38046 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101185312
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Candelaria Water Supply Corporation
Case ID No. 38046
Reg. Ent. Reference No. RN101185312
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

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]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	4-Jun-2009	29-Jul-2009	1.07	\$5	\$100	\$105

Notes for AVOIDED costs

Estimated cost to ensure proper oversight and an adequate supply of chlorine is being injected into the water to ensure it is adequately disinfected. The date required is the date of the investigation, the final date is the date of screening.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date 29-Jul-2009 **Docket No.** 2009-1210-PWS-E **PCW**
Respondent Candelaria Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38046 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101185312
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description
 Failed to issue a boil water notification within 24 hours of a failure to maintain adequate chlorine residual using the prescribed notification format specified in 30 Tex. Admin. Code § 290.47(e). Specifically, an investigation conducted on June 4, 2009, documented that the Respondent did not issue a boil water notice within 24 hours in response to the chlorine level dropping to 0.0 mg/L for free chlorine on June 4, 2009.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 Failure to issue a boil water notice may not allow the public to take appropriate measures in response to low water pressure and low chlorine residuals which would potentially expose the public to significant amounts of contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

mark only one with an x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Candelaria Water Supply Corporation
Case ID No. 38046
Reg. Ent. Reference No. RN101185312
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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]	\$25	4-Jun-2009	5-Jun-2009	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide a boil water notice, calculated for the 24 hour period the notice was required to be issued.

Approx. Cost of Compliance \$25

TOTAL \$25

Screening Date 29-Jul-2009 **Docket No.** 2009-1210-PWS-E **PCW**
Respondent Candelaria Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38046 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101185312
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number 3

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

Violation Description
 Failed to collect routine distribution water samples for coliform analysis for the months of April, October, November and December 2007 and February, May and November, 2008, and January, 2009 and failed to provide a public notification of the failure to sample for the months of April, October, November, and December, 2007 and February, May and November, 2008, and January, 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes
 Failure to sample may allow a significant amount of undetected contaminants which exceed levels that are protective of human health or environmental receptors to be distributed to the public for human consumption.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 8 671 Number of violation days

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

Violation Base Penalty \$2,000

Eight monthly events are recommended, based on one event for each month samples were not taken.

Good Faith Efforts to Comply 0.0% Reduction \$0

	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 \$2,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$455 **Violation Final Penalty Total** \$4,226

This violation Final Assessed Penalty (adjusted for limits) \$4,226

Economic Benefit Worksheet

Respondent Candelaria Water Supply Corporation
Case ID No. 38046
Reg. Ent. Reference No. RN101185312
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	1-Apr-2007	31-Jan-2009	2.76	\$28	\$200	\$228
Other (as needed)	\$200	1-Apr-2007	31-Jan-2009	2.76	\$28	\$200	\$228

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to conduct routine sampling (estimated at \$25 each for eight samples) and to provide public notice (estimated at \$25 for eight months). The beginning date is the first month sampling was required, the end date is the last month the sampling was not conducted.

Approx. Cost of Compliance

\$400

TOTAL

\$455

Screening Date 29-Jul-2009 **Docket No.** 2009-1210-PWS-E **PCW**
Respondent Candelaria Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38046 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101185312
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(3)(A) and 290.122(c)(2)(A)
Violation Description Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive sample result on a routine sample collection for the months of August, 2007, and March and June, 2008, and failed to provide a public notification of the failure to sample for the months of August 2007, and June, 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%

Matrix Notes Failure to sample may allow a significant amount of undetected contaminants which exceed levels that are protective of human health or environmental receptors to be distributed to the public for human consumption.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 334 Number of violation days

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

Violation Base Penalty \$750

Three monthly events are recommended, based on one event for each month repeat samples were not taken.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$382 **Violation Final Penalty Total** \$1,585

This violation Final Assessed Penalty (adjusted for limits) \$1,585

Economic Benefit Worksheet

Respondent Candelaria Water Supply Corporation
Case ID No. 38046
Reg. Ent. Reference No. RN101185312
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
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]	\$50	1-Aug-2007	30-Jun-2008	1.83	\$5	\$50	\$55
Other (as needed)	\$300	1-Aug-2007	30-Jun-2008	1.83	\$27	\$300	\$327

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to collect repeat samples (estimated at \$25 each for 12 samples) and to provide public notice (estimated at \$25 for two months). The beginning date is the first month that repeat samples were required, the end date is the last month that repeat samples were due. Dates for public notice is the time period that public notice was due.

Approx. Cost of Compliance

\$350

TOTAL

\$382

Screening Date 29-Jul-2009 **Docket No.** 2009-1210-PWS-E **PCW**
Respondent Candelaria Water Supply Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38046 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101185312
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Candelaria Water Supply Corporation
Case ID No. 38046
Reg. Ent. Reference No. RN101185312
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				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]	\$50	1-Apr-2008	30-Oct-2009	2.50	\$6	\$50	\$56
Other (as needed)	\$200	1-Apr-2008	30-Oct-2009	2.50	\$25	\$200	\$225

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to conduct routine sampling (estimated at \$25 per sample, three required for April and five required for October) and to provide public notice (estimated at \$25 for two months). The beginning date is the first month sampling was required, the end date is the last month the sampling was not conducted. Dates for public notice is the time period that public notice was due.

Approx. Cost of Compliance

\$250

TOTAL

\$281

Compliance History Report

Customer/Respondent/Owner-Operator: CN600632392 Candelaria Water Supply Corp Classification: Rating:
 Regulated Entity: RN101185312 CANDELARIA WSC Classification: Site Rating:
 ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1890011
 WATER LICENSING LICENSE 1890011

Location: 58 miles north of Presidio on FM 170, Presidio County, Tx
 TCEQ Region: REGION 06 - EL PASO
 Date Compliance History Prepared: July 30, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: July 30, 2004 to July 30, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Tel Croston Phone: 239 - 5717

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 judgements, and consent decrees of the state of Texas and the federal government.
 N/A

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

C. Chronic excessive emissions events.
 N/A

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

1	10/07/2004	(336986)		14	07/28/2009	(760331)
2	01/21/2005	(347798)		15	07/28/2009	(760338)
3	02/09/2006	(451715)		16	07/28/2009	(760342)
4	02/28/2007	(616706)		17	07/28/2009	(760348)
5	05/23/2007	(616822)		18	07/28/2009	(760354)
6	05/23/2007	(652465)		19	07/28/2009	(760358)
7	08/09/2007	(616826)		20	07/28/2009	(760362)
8	08/09/2007	(652649)		21	07/28/2009	(760365)
9	11/12/2007	(616830)		22	07/28/2009	(760367)
10	11/12/2007	(653007)		23	07/28/2009	(760368)
11	02/11/2008	(617485)		24	07/28/2009	(760380)
12	06/25/2009	(759663)		25	07/28/2009	(760383)
13	07/06/2009	(749749)				

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

- | | | | | |
|---|------------------|---|-----------------|----------|
| 1 | Date: 09/20/2004 | (336986) | CN600632392 | |
| | Self Report? | NO | Classification: | Major |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(A) | | |
| | Description: | Failure to have continuous disinfection equipment operational. | | |
| | Self Report? | NO | Classification: | Major |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.42(i) | | |
| | Description: | Failure to use NSF approved Chemicals. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.44(d)(5) | | |
| | | 30 TAC Chapter 290, SubChapter D 290.44(d)(6) | | |
| | Description: | Failure to flush dead ends. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.121 | | |
| | Description: | Failure to have a monitoring plan. | | |
| | Self Report? | NO | Classification: | Minor |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)(4) | | |
| | | 30 TAC Chapter 290, SubChapter F 290.111(e) | | |
| | Description: | Failure to submit quarterly disinfection records to TCEQ. | | |
| 2 | Date: 02/28/2007 | (616706) | CN600632392 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | | |
| | | 5A THSC Chapter 341, SubChapter A 341.0315(c) | | |
| | Description: | Violated the maximum contaminant level for arsenic during the fourth quarter of 2006. | | |
| 3 | Date: 05/23/2007 | (616822) | CN600632392 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | | |
| | | 5A THSC Chapter 341, SubChapter A 341.0315(c) | | |
| | Description: | Violated the maximum contaminant level for arsenic during the first quarter of 2007. | | |

4 Date: 05/25/2007 (759663) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 04/2007 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 04/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

5 Date: 08/09/2007 (616826) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the second quarter of 2007.

6 Date: 10/23/2007 (760331) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 08/2007 - Failure to collect any repeats following a coliform found result.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Repeat Monitoring Violation 08/2007 - Failure to post public notice for not collecting any repeats following a coliform found result.

7 Date: 11/12/2007 (616830) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for arsenic during the third quarter of 2007.

8 Date: 01/31/2008 (760338) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 10/2007 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 10/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

9 Date: 02/14/2008 (760342) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 11/2007 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 11/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

10 Date: 02/21/2008 (760348) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 12/2007 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

11 Date: 04/16/2008 (760354) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

12 Date: 04/29/2008 (760358) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 03/2008 - Failure to collect all repeats following a coliform found result.

13 Date: 05/22/2008 (760362) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 04/2008 - Failure to collect all 5 distribution samples following a coliform found month.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Increase Monitoring Violation 04/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

14 Date: 06/27/2008 (760365) CN600632392
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate

- Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 15 Date: 07/31/2008 (760367) CN600632392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: TCR Repeat Monitoring Violation 06/2008 - Failure to collect any repeats following a coliform found result.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Repeat Monitoring Violation 06/2008 - Failure to post public notice for not collecting any repeats following a coliform found result.
- 16 Date: 12/09/2008 (760368) CN600632392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 10/2008 - Failure to collect all 5 distribution samples following a coliform found month.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Increase Monitoring Violation 10/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
- 17 Date: 01/13/2009 (760380) CN600632392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 18 Date: 04/07/2009 (760383) CN600632392
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CANDELARIA WATER SUPPLY	§	
CORPORATION;	§	ENVIRONMENTAL QUALITY
RN101185312	§	

AGREED ORDER
DOCKET NO. 2009-1210-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Candelaria Water Supply Corporation (“Candelaria”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Candelaria presented this agreement to the Commission.

Candelaria 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, Candelaria agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Candelaria.

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

FINDINGS OF FACT

1. Candelaria owns and operates a public water system located 58 miles north of Presidio on Farm-to-Market Road 170, Presidio County, Texas (the “Facility”).
2. The Facility provides water for human consumption, has approximately 28 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. During an investigation conducted on June 4, 2009, a TCEQ El Paso Regional Office investigator documented that Candelaria:

- a. Failed to operate the disinfection equipment to maintain a free chlorine residual of at least 0.2 milligrams per liter (“mg/L”) free chlorine or 0.5 mg/L chloramine throughout the distribution system. Specifically, a free chlorine residual of 0.0 mg/L was documented.
 - b. Failed to issue a boil water notification within 24 hours of a failure to maintain adequate chlorine residual using the prescribed notification format specified in 30 TEX. ADMIN. CODE § 290.47(e). Specifically, Candelaria did not issue a boil water notice within 24 hours in response to the chlorine level dropping to 0.0 mg/L for free chlorine on June 4, 2009.
4. During a record review conducted on June 24, 2009, a TCEQ Public Water System investigator documented that Candelaria:
- a. Failed to collect routine distribution water samples for coliform analysis for the months of April, October, November, and December 2007, February, May, and November 2008, and January 2009, and failed to provide public notification of the failure to sample for the months of April, October, November, and December 2007, February, May, and November 2008, and January 2009.
 - b. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive sample result on a routine sample collection for the months of August 2007, and March and June 2008, and failed to provide public notification of the failure to collect repeat samples for the months of August 2007 and June 2008.
 - c. Failed to collect a minimum of five distribution coliform samples the month following a total coliform positive sample result for the months of April and October 2008, and failed to provide public notification of the failure to sample for the months of April and October 2008.
5. Candelaria received notice of the violations in Findings of Fact Nos. 3.a. and 3.b. on or about July 12, 2009. Candelaria received notice of the violations in Findings of Fact Nos. 4.a. through 4.c. on or about August 12, 2009.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Candelaria 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 Finding of Fact No. 3.a., Candelaria failed to operate the disinfection equipment to maintain a free chlorine residual of at least 0.2 mg/L free chlorine or 0.5 mg/L chloramine throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.46(d)(2).

3. As evidenced by Finding of Fact No. 3.b., Candelaria failed to issue a boil water notification within 24 hours of a failure to maintain adequate chlorine residual using the prescribed notification format specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1).
4. As evidenced by Finding of Fact No. 4.a., Candelaria failed to collect routine distribution water samples for coliform analysis for the months of April, October, November, and December 2007, February, May, and November 2008, and January 2009, and failed to provide public notification of the failure to sample for the months of April, October, November, and December 2007, February, May, and November 2008, and January 2009, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
5. As evidenced by Finding of Fact No. 4.b., Candelaria failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform positive sample result on a routine sample collection for the months of August 2007, and March and June 2008, and failed to provide public notification of the failure to collect repeat samples for the months of August 2007 and June 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A) and 290.122(c)(2)(A).
6. As evidenced by Finding of Fact No. 4.c., Candelaria failed to collect a minimum of five distribution coliform samples the month following a total coliform positive sample result for the months of April and October 2008, and failed to provide public notification of the failure to sample for the months of April and October 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Candelaria for violations of 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.
8. An administrative penalty in the amount of seven thousand nine hundred twenty-three dollars (\$7,923.00) 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. Candelaria paid two hundred twenty-three dollars (\$223.00) of the administrative penalty. The remaining amount of seven thousand seven hundred dollars (\$7,700.00) of the administrative penalty shall be payable in thirty-five monthly payments of two hundred twenty dollars (\$220.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If Candelaria fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Candelaria to meet the payment schedule of this Agreed

Order constitutes the failure by Candelaria to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Candelaria pay an administrative penalty in the amount of seven thousand nine hundred twenty-three dollars (\$7,923.00) as set forth in Conclusion of Law No. 8, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Candelaria'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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Candelaria Water Supply Corporation; Docket No. 2009-1210-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. Candelaria shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Candelaria shall begin operating the Facility's chlorination facilities to maintain a free chlorine residual of 0.2 mg/L in the far reaches of the distribution system at all times, as required by 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 10 days after the effective date of this Agreed Order, Candelaria shall begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
 - c. Within 15 days after the effective date of this Agreed Order, Candelaria shall submit written certification as detailed in Ordering Provision No. 2.g., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - d. Within 30 days after the effective date of this Agreed Order, Candelaria shall develop and begin maintaining a written protocol that is to be followed to ensure that proper public notification and boil water notices are provided to the customers of the water

system in the event of distribution pressure below 20 pounds per square inch water outages, positive microbial samples, low chlorine residuals, or other conditions which indicate that the potability of the water may be compromised, as required by 30 TEX. ADMIN. CODE § 290.46.

- e. Within 45 days after the effective date of this Agreed Order, Candelaria shall submit written certification as detailed in Ordering Provision No. 2.g., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d.
- f. Within 190 days after the effective date of this Agreed Order, Candelaria shall submit written certification as detailed in Ordering Provision No. 2.g., below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.
- g. The certifications required by Ordering Provision Nos. 2.c., 2.e., and 2.f. shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

Candelaria shall submit copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

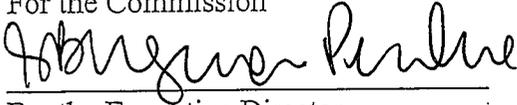
Kent Waggoner, Water Section Manager
Texas Commission on Environmental Quality
El Paso Regional Office
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon Candelaria. Candelaria is ordered to give notice of this 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 Candelaria shall be made in writing to the Executive Director. Extensions are not effective until Candelaria 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 Candelaria if the Executive Director determines that Candelaria 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 Candelaria 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to Candelaria, or three days after the date on which the Commission mails notice of this Agreed Order to Candelaria, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/27/2010

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Candelaria Water Supply Corporation. I represent that I am authorized to agree to the attached Agreed Order on behalf of Candelaria Water Supply Corporation and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on Candelaria's compliance history;
- Greater scrutiny of any permit applications submitted by Candelaria;
- 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 against Candelaria;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Candelaria; and
- TCEQ seeking other relief as authorized by law.

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



Signature

8/8/10

Date

Guadalupe Timmerman

Name (printed or typed)

Authorized Representative

Candelaria Water Supply Corporation

President

Title