

Executive Summary – Enforcement Matter – Case No. 40782
Dora Medina dba Montana Hideaway Bar
RN105865828
Docket No. 2010-1918-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Montana Hideaway Bar, 12835 Montana Avenue, El Paso County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 27, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,656

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,768

Total Due to General Revenue: \$3,888

Payment Plan: 27 payments of \$144 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 11, 2010, October 11, 2010, and January 24, 2011

Date(s) of NOE(s): November 15, 2010

Violation Information

1. Failed to provide the Facility's ground storage tank ("GST") with a gooseneck vent or roof ventilator with an opening protected by a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants [30 TEX. ADMIN. CODE § 290.43(c)(1)].
2. Failed to provide the Facility's GST with a roof opening that is designed in accordance with current American Water Works Association ("AWWA") standards [30 TEX. ADMIN. CODE § 290.43(c)(2)].
3. Failed to provide the GST with an overflow pipe that terminates downward with a gravity-hinged and weighted cover [30 TEX. ADMIN. CODE § 290.43(c)(3)].
4. Failed to provide the GST with a liquid level indicator located at the tank site [30 TEX. ADMIN. CODE § 290.43(c)(4)].
5. Failed to securely install all water system electrical wiring in compliance with a local or national electrical code [30 TEX. ADMIN. CODE § 290.46(v)].
6. Failed to inspect the Facility's GST annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].
7. Failed to inspect the Facility's pressure tank annually [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)].
8. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d)].
9. Failed to provide an intruder-resistant fence to protect the GST [30 TEX. ADMIN. CODE § 290.43(e)].
10. Failed to submit plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply [30 TEX. ADMIN. CODE §§ 290.39(e)(1) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a)].

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11. Failed to provide written notification to the Commission of the startup of a new public water system [30 TEX. ADMIN. CODE § 290.39(m)].

12. Failed to pay all annual Public Health Service fees, including any associated late fees and penalties [30 TEX. ADMIN. CODE § 290.51(b) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent completed the following measures:

a. As of April 27, 2010:

- i. Notified the Commission of the start-up of a new public water supply; and
- ii. Submitted as-built plans and specifications for the Facility that have been prepared by a licensed professional engineer for Commission review and approval.

b. As of February 28, 2011:

- i. Installed a new booster pump and insured that all wiring is installed in compliance with local and national electrical codes;
- ii. Installed and subsequently inspected a new pressure tank at the Facility; and
- iii. Provided a GST designed in strict accordance with current AWWA standards, which was inspected at the time of installation.

Technical Requirements:

The Order will require the Respondent to:

a. Within 10 days:

- i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and
- ii. 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 months of compliance monitoring and reporting.

b. Within 30 days:

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- i. Submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.i.;
- ii. Submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 90710198.
- c. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b.ii.
- d. Within 60 days, provide an intruder-resistant fence to protect the GST.
- e. Within 75 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision d.
- f. Within 195 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Dora Medina, Owner, Montana Hideaway Bar, 9780 East Ridge Drive, El Paso, Texas 79925
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned	22-Nov-2010	Screening	1-Dec-2010	EPA Due	28-Feb-2011
PCW	4-Mar-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Dora Medina dba Montana Hideaway Bar		
Reg. Ent. Ref. No.	RN105865828		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40782	No. of Violations	12	
Docket No.	2010-1918-PWS-E	Order Type	Findings	
Media Program(s)	Public Water Supply	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeodu	
		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** **\$4,400**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$880**

Notes: Enhancement for four NOVs with same/similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$50**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$1,110**
 Approx. Cost of Compliance **\$24,729**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,230**

OTHER FACTORS AS JUSTICE MAY REQUIRE **8.1%** **Adjustment** **\$426**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with Viol. Nos. 6, 7, 8 and 11.

Final Penalty Amount **\$5,656**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,656**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$5,656**

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
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) 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

Enhancement for four NOVs with same/similar violations.

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

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(1)

Violation Description Failed to provide the Facility's ground storage tank ("GST") with a gooseneck vent or roof ventilator with an opening protected by a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to provide the GST with a gooseneck vent or roof ventilator may not allow excessive air to escape from the tank and result in the exposure of customers of the Facility to a significant amount of pollutants, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 51

Table for frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, October 11, 2010, to the screening date, December 1, 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent achieved compliance on February 28, 2011.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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

The estimated delayed cost for this violation is addressed in Violation No. 4.

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 \$0

TOTAL \$0

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(2)

Violation Description

Failed to provide the Facility's GST with a roof opening that is designed in accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the GST did not have a roof opening.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide a GST with a roof opening may not allow access for proper cleaning and maintenance of the interior of the tank which could cause customers of the Facility to be exposed to a significant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

51 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, October 11, 2010, to the screening date, December 1, 2010.

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 achieved compliance on February 28, 2011.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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
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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

The estimated delayed cost for this violation is addressed in Violation No. 4.

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

TOTAL

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(3)

Violation Description Failed to provide the GST with an overflow pipe that terminates downward with a gravity-hinged and weighted cover. Specifically, at the time of the investigation, there was no overflow pipe on the GST.

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 Without an overflow pipe installed on the GST, excessive water could not escape from the tank and result in the exposure of customers of the Facility to a significant amount of pollutants, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 51

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

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, October 11, 2010, to the screening date, December 1, 2010.

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 achieved compliance on February 28, 2011.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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

The estimated delayed cost for this violation is addressed in Violation No. 4.

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 \$0

TOTAL \$0

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(4)

Violation Description Failed to provide the GST with a liquid level indicator located at the tank site. Specifically, at the time of the investigation, it was documented that the Facility's GST was not equipped with a liquid level indicator.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (5%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to have a liquid level indicator on the GST prevents the operator from making the necessary water storage calculations which could potentially expose the public to an insignificant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 51

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDRP/Settlement Offer \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent achieved compliance on February 28, 2011.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$577

Violation Final Penalty Total \$65

This violation Final Assessed Penalty (adjusted for limits) \$65

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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	\$21,500	11-Oct-2010	28-Feb-2011	0.38	\$27	\$550	\$577
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 (replacement cost at \$2.15/gallon) to provide a GST designed in strict accordance with current AWWA standards, calculated from the investigation date 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	\$21,500	TOTAL	\$577
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Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(v)

Violation Description Failed to securely install all water system electrical wiring in compliance with a local or national electrical code. Specifically, at the time of the investigation, it was documented that electrical wiring for the booster pump was exposed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to install all water system electrical wiring in compliance with a local or national electrical code may cause unsafe working conditions for Facility personnel and/or cause power failure that results in a significant amount of pollutants entering the water supply which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

51 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the investigation date, October 11, 2010, to the screening date, December 1, 2010.

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 achieved compliance on February 28, 2011.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$649

This violation Final Assessed Penalty (adjusted for limits) \$649

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	11-Oct-2010	28-Feb-2011	0.38	\$0	\$5	\$5
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 install the Facility's electrical wiring in compliance with a local or national electrical code at the pressure pump, 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	\$5
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Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(A)

Violation Description Failed to inspect the Facility's GST annually. Specifically, at the time of the investigation, it was documented that the GST was not inspected in the 12 months preceding the October 11, 2010 investigation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to inspect the GST could result in non-detection of a tank defect and a loss of tank integrity, resulting in the public being exposed to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$100

One annual event is recommended, calculated for the 12 months prior to the investigation date, October 11, 2010.

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 achieved compliance on February 28, 2011.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$130

This violation Final Assessed Penalty (adjusted for limits) \$130

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
Media Public Water Supply
Violation No. 6

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	\$41	11-Oct-2009	11-Oct-2010	1.00	\$2	\$41	\$43
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform an annual GST inspection (\$41 per tank), calculated for the 12 months preceding the October 11, 2010 investigation.

Approx. Cost of Compliance

\$41

TOTAL

\$43

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(B)

Violation Description Failed to inspect the Facility's pressure tank annually. Specifically, at the time of the investigation, it was documented that the pressure tank was not inspected in the 12 months preceding the October 11, 2010 investigation.

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 inspect a pressure tank could result in non-detection of a tank defect and a loss of tank integrity, resulting in the public being exposed to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

	1	365	Number of violation days
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual	x	
single event			

Violation Base Penalty \$250

One annual event is recommended, calculated for the 12 months prior to the investigation date, October 11, 2010.

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 achieved compliance on February 28, 2011.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$324

This violation Final Assessed Penalty (adjusted for limits) \$324

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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
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	\$41	11-Oct-2009	11-Oct-2010	1.00	\$2	\$41	\$43
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform an annual pressure tank inspection (\$41 per tank), calculated for the 12 months preceding the October 11, 2010 investigation.

Approx. Cost of Compliance \$41

TOTAL \$43

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2005

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 8

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

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the following months: February through November 2010; and failed to provide public notification of the failure to sample for February through November 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to properly sample may expose the public to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

10

293 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Ten monthly events are recommended, based on the months sampling was not conducted.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$329

Violation Final Penalty Total \$3,244

This violation Final Assessed Penalty (adjusted for limits) \$3,244

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
Media Public Water Supply
Violation No. 8

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)	\$100	11-Oct-2010	31-Jul-2011	0.80	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement training on procedures necessary to ensure that all public notifications are provided in a timely manner to the customers of the Facility, calculated from the investigation date 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]	\$250	28-Feb-2010	31-Dec-2010	1.76	\$22	\$250	\$272
Other (as needed)	\$50	31-May-2010	31-Dec-2010	1.50	\$4	\$50	\$54

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary (\$25 x 10 samples + \$5 x 10 public notice) to conduct routine coliform sampling and provide public notification of the failure to collect the sample, calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$400

TOTAL

\$329

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 290.43(e)

Violation Description Failed to provide an intruder-resistant fence or a lockable building to protect the GST. Specifically, at the time of the investigation, it was documented that the GST was not enclosed by an intruder-resistant fence.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Failure to provide proper intruder-resistant protection for the ground storage tank may allow trespassers to enter the Facility and vandalize the tank which could expose the public 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 2 Number of violation days 51

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

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the investigation date, October 11, 2010, to the screening date, December 1, 2010.

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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$649

This violation Final Assessed Penalty (adjusted for limits) \$649

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
Media Public Water Supply
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	11-Oct-2010	30-Sep-2011	0.97	\$3	\$65	\$68
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 provide the GST with an intruder-resistant fence, calculated from the investigation date 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	\$68
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Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(e)(1) and (h)(1) and Tex. Health & Safety Code § 341.035(a)

Violation Description

Failed to submit plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply. Specifically, at the time of the investigation, it was documented that the Respondent was operating a business that meets the criteria of transient/non-community purchased water system.

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

The Respondent failed to meet 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

51 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

25.0% Reduction

\$25

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

Notes The Respondent achieved compliance on April 27, 2010.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$103

This violation Final Assessed Penalty (adjusted for limits) \$103

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	11-Jan-2010	27-Apr-2010	0.29	\$1	\$29	\$30
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 submit as-built plans and specifications for a new water system, 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)

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$30

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code § 290.39(m)

Violation Description Failed to provide written notification to the Commission of the startup of a new public water system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%). Matrix Notes: The Respondent failed to meet 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 51

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent achieved compliance on April 27, 2010.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$103

This violation Final Assessed Penalty (adjusted for limits) \$103

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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
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	\$47	11-Jan-2010	27-Apr-2010	0.29	\$1	\$14	\$14
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The delayed costs include the estimated amount to submit notification of a new water system startup, calculated from the date of the investigation to the date of compliance.

Approx. Cost of Compliance \$47

TOTAL \$14

Screening Date 1-Dec-2010

Docket No. 2010-1918-PWS-E

PCW

Respondent Dora Medina dba Montana Hideaway Bar

Policy Revision 2 (September 2002)

Case ID No. 40782

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105865828

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

V12 12

Rule Cite(s) 30 Tex. Admin. Code § 290.51(b) and Tex. Water Code § 5.702

Violation Description Failed to pay all annual Public Health Service fees, for fiscal year 2010, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90710198.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table with frequency options: daily, weekly, monthly, quarterly, semiannual, annual, single event. Includes instruction: mark only one with an x.

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Reduction (Before NOV, NOV to EDRP/Settlement Offer).

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Dora Medina dba Montana Hideaway Bar
Case ID No. 40782
Reg. Ent. Reference No. RN105865828
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)				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

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603748344 Medina, Dora Classification: Rating:
Regulated Entity: RN105865828 MONTANA HIDEAWAY BAR Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0710198
Location: 12835 MONTANA AVENUE, EL PASO COUNTY, TEXAS
TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: January 24, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 24, 2006 to January 24, 2011

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

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

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? Yes
3. If Yes, who is the current owner/operator? Dora Medina
4. If Yes, who was/were the prior owner(s)/operator(s)? Manuel Medina
5. When did the change(s) in owner or operator occur? February 9, 2010

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 11/15/2010 (870625)
- 2 11/23/2010 (878973)
- 3 11/29/2010 (879063)
- 4 11/29/2010 (879075)
- 5 11/29/2010 (879080)

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

Date: 05/03/2010 (878973) CN603748344
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 03/2010 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 03/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/10/2010 (879063) CN603748344
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 04/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 04/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/06/2010 (879075) CN603748344

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 05/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 05/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/23/2010 (879080) CN603748344

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 06/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 06/2010 - 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
ENFORCEMENT ACTION
CONCERNING
DORA MEDINA DBA MONTANA
HIDEAWAY BAR
RN105865828**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1918-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 Dora Medina dba Montana Hideaway Bar (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that she 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 12835 Montana Avenue in 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 11, 2010, TCEQ staff documented that the Respondent did not provide the Facility's ground storage tank ("GST") with a gooseneck vent or roof ventilator with an opening protected by a 16-mesh or finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants.
3. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not provide the Facility's GST with a roof opening that is designed in accordance with current American Water Works Association ("AWWA") standards. Specifically, at the time of the investigation, it was documented that the GST did not have a roof opening.
4. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not provide the GST with an overflow pipe that terminates downward with a gravity-hinged and weighted cover. Specifically, at the time of the investigation, there was no overflow pipe on the GST.
5. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not provide the GST with a liquid level indicator located at the tank site. Specifically, at the time of the investigation, it was documented that the Facility's GST was not equipped with a liquid level indicator.
6. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not securely install all water system electrical wiring in compliance with a local or national electrical code. Specifically, at the time of the investigation, it was documented that electrical wiring for the booster pump was exposed.
7. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not inspect the Facility's GST annually. Specifically, at the time of the investigation, it was documented that the GST was not inspected in the 12 months preceding the October 11, 2010 investigation.
8. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not inspect the Facility's pressure tank annually. Specifically, at the time of the investigation, it was documented that the pressure tank was not inspected in the 12 months preceding the October 11, 2010 investigation.
9. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the following months: February through November 2010; and failed to provide public notification of the failure to sample for February through November 2010.
10. During an investigation conducted on October 11, 2010, TCEQ staff documented that the Respondent did not provide an intruder-resistant fence to protect the GST. Specifically, at the time of the investigation, it was documented that the GST was not enclosed by an intruder-resistant fence.

11. During an investigation conducted on January 11, 2010, TCEQ staff documented that the Respondent did not submit plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply. Specifically, at the time of the investigation, it was documented that the Respondent was operating a business that meets the criteria of transient/non-community purchased water system.
12. During an investigation conducted on January 11, 2010, TCEQ staff documented that the Respondent did not provide written notification to the Commission of the startup of a new public water system.
13. During a record review conducted on January 24, 2011, TCEQ staff documented that the Respondent did not pay all annual and late Public Health Services ("PHS") fees for TCEQ Financial Administration Account No. 90710198 for fiscal year 2010.
14. The Respondent received notice of the violations on November 18, 2010.
15. The Executive Director recognizes that the Respondent completed the following measures:
 - a. As of April 27, 2010:
 - i. Notified the Commission of the start-up of a new public water supply; and
 - ii. Submitted as-built plans and specifications for the Facility that have been prepared by a licensed professional engineer for Commission review and approval.
 - b. As of February 28, 2011:
 - i. Installed a new booster pump and insured that all wiring is installed in compliance with local and national electrical codes;
 - ii. Installed and subsequently inspected a new pressure tank at the Facility; and
 - iii. Provided a GST designed in strict accordance with current AWWA standards, which was inspected at the time of installation.

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 provide the Facility's GST with a gooseneck vent or roof ventilator with an opening protected by a 16-mesh or

- finer corrosion resistant screen to prevent entry of animals, birds, insects and heavy air contaminants, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(1).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide the Facility's GST with a roof opening that is designed in accordance with current AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(2).
 4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide the GST with an overflow pipe that terminates downward with a gravity-hinged and weighted cover, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3).
 5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide the GST with a liquid level indicator located at the tank site, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4).
 6. As evidenced by Findings of Fact No. 6, the Respondent failed to securely install all water system electrical wiring in compliance with a local or national electrical code, in violation of 30 TEX. ADMIN. CODE § 290.46(v).
 7. As evidenced by Findings of Fact No. 7, the Respondent failed to inspect the Facility's GST annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
 8. As evidenced by Findings of Fact No. 8, the Respondent failed to inspect the Facility's pressure tank annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).
 9. As evidenced by Findings of Fact No. 9, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
 10. As evidenced by Findings of Fact No. 10, the Respondent failed to provide an intruder-resistant fence to protect the GST, in violation of 30 TEX. ADMIN. CODE § 290.43(e).
 11. As evidenced by Findings of Fact No. 11, the Respondent failed to submit plans and specifications to the Executive Director for review and approval prior to the establishment of a new public water supply, in violation of 30 TEX. ADMIN. CODE §§ 290.39(e)(1) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a).
 12. As evidenced by Findings of Fact No. 12, the Respondent failed to provide written notification to the Commission of the startup of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(m).
 13. As evidenced by Findings of Fact No. 13, the Respondent failed to pay all annual Public Health Service fees, including any associated late fees and penalties, in violation of 30 TEX. ADMIN. CODE § 290.51(b) and TEX. WATER CODE § 5.702.

14. 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.
15. An administrative penalty in the amount of Five Thousand Six Hundred Fifty-Six Dollars (\$5,656) 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 One Thousand Seven Hundred Sixty-Eight Dollars (\$1,768) of the administrative penalty. The remaining amount of Three Thousand Eight Hundred Eighty-Eight Dollars (\$3,888) of the administrative penalty shall be payable in 27 monthly payments of One Hundred Forty-Four Dollars (\$144) 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 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 Respondent to meet the payment schedule of this Agreed Order constitutes the failure by 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 Five Thousand Six Hundred Fifty-Six Dollars (\$5,656) as set forth in Section II, Paragraph 15 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: Dora Medina dba Montana Hideaway Bar, Docket No. 2010-1918-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 10 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. 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 months of compliance monitoring and reporting.
- b. Within 30 days of the effective date of this Agreed Order:
 - i. Submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i;
 - ii. Submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 90710198, in accordance with 30 TEX. ADMIN. CODE § 290.51. The payment shall be sent with the notation "Re: Dora Medina dba Montana Hideaway Bar, FA Account No. 90710198" 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
- c. Within 45 days of the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.ii.
- d. Within 60 days of the effective date of this Agreed Order, provide an intruder-resistant fence to protect the GST, in accordance with 30 TEX. ADMIN. CODE § 290.43.
- e. Within 75 days of the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d.
- 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 Provision No. 2.a.ii. 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

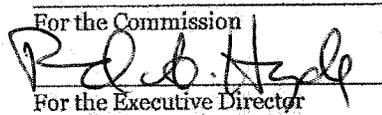
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension 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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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.

Dora Medina dba Montana Hideaway Bar
DOCKET NO. 2010-1918-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

9/22/11
Date

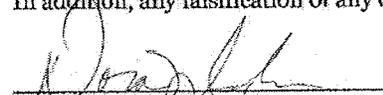
I, the undersigned, have read and understand the attached Agreed Order in the matter of Dora Medina dba Montana Hideaway Bar. I am authorized to agree to the attached Agreed Order on behalf of Dora Medina dba Montana Hideaway Bar, and do agree to the specified terms and conditions. I further acknowledge 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, Dora Medina dba Montana Hideaway 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.


Signature

9-15-11
Date

Dora Medina
Name (Printed or typed)
Authorized Representative of
Dora Medina dba Montana Hideaway Bar

owner
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.