

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0708-PWS-E **TCEQ ID:** RN105473599 **CASE NO.:** 35760
RESPONDENT NAME: Roberto Mendez and Zoila Mendez

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Lane's Café, 5164 Farm-to-Market Road 1017, San Isidro, Starr County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondents has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 20, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512)239-1482; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Roberto Mendez and Mrs. Zoila Mendez, Owners, P.O. Box 16, San Isidro, Texas 78588 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 6, 2008</p> <p>Date of NOV/NOE Relating to this Case: April 10, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to locate a well site for public drinking water at least 150 feet from a septic tank drainfield and ensure livestock are not allowed within 50 feet of the well [30 TEX. ADMIN. CODE § 290.41(c)(1)(A) and 290.41(c)(1)(D)].</p> <p>2) Failed to provide an intruder-resistant fence or lockable building to protect the water system well [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].</p> <p>3) Failed to provide a flow measuring device for the water system well to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].</p> <p>4) Failed to provide the well with a concrete sealing block extending a minimum of three feet from the exterior well casing in all directions [30 TEX. ADMIN. CODE § 290.41(c)(3)(J)].</p> <p>5) Failed to provide disinfection facilities for all ground water supplies for the purpose of microbiological control and distribution protection [30 TEX. ADMIN. CODE § 290.42(b)(1)].</p> <p>6) Failed to compile and maintain records of water works operation and maintenance activities for operator reference and Commission review during investigations [30 TEX. ADMIN. CODE § 290.46(f)].</p>	<p>Total Assessed: \$2,500</p> <p>Total Deferred: \$500 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$1,800 (remaining \$200 due in 1 monthly payment of \$200)</p> <p>Compliance History Classification: CN603330382 and CN603348780 Person/CN – N/A Site/RN – N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondents to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install a flow measuring device on the Facility's well;</p> <p>ii. Install disinfection equipment so that continuous and effective disinfection can be secured under all conditions;</p> <p>iii. Develop and begin maintaining records of water works operations and maintenance activities; and</p> <p>iv. Provide notification to the Executive Director of the reactivation of the public water supply.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Provide the well with an intruder-resistant fence that includes three strands of barbed wire on the top of the fence and a lockable gate or enclose the well in a locked ventilated well house to exclude possible contamination or damage to the facilities by trespassers;</p> <p>ii. Provide a concrete sealing block for the well that extends at least three feet in all directions from the well casing;</p> <p>iii. Properly seal the well head and provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and located as to minimize the drawing of contaminants into the well; and</p>

<p>7) Failed to secure sanitary control easements covering land within 150 feet of the well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>8) Failed to properly seal the well head and provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and are located as to minimize the drawing of contaminants into the well [30 TEX. ADMIN. CODE § 290.41(c)(3)(K)].</p> <p>9) Failed to provide written notification of the reactivation of an existing public water system to the Commission [30 TEX. ADMIN. CODE § 290.39(m)].</p> <p>10) Failed to submit well completion data [30 TEX. ADMIN. CODE § 290.41(c)(3)(A)].</p>		<p>iv. Secure a sanitary easement covering all property within 150 feet of the well location from adjacent landowners and record the deeds at the county courthouse.</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c;</p> <p>e. Within 90 days after the effective date of this Agreed Order, submit well completion data;</p> <p>f. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision e;</p> <p>g. Within 180 days after the effective date of this Agreed Order, ensure the well site is not located within 150 feet of the septic tank drainfield and livestock is not located within 50 feet; and</p> <p>h. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision g.</p>
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Additional ID No(s): Public Water Supply ID No. 2140021



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Apr-2008	Screening	17-Apr-2008	EPA Due	
	PCW	11-Aug-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Roberto Mendez and Zoila Mendez
Reg. Ent. Ref. No.	RN105473599
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	35760	No. of Violations	10	
Docket No.	2008-0708-PWS-E	Order Type	1660	
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeod	
Multi-Media		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	\$2,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0

Notes: No enhancement recommended due to no prior compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply	0.0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondents do not meet the good faith criteria.

	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$3,040	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$14,275		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$2,500

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,500
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DEFERRAL	20.0% Reduction	Adjustment	-\$500
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,000
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Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

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>)	0	0%
	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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> 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

No enhancement recommended due to no prior compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2006)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(A) and 290.41(c)(1)(D)

Violation Description

Failed to locate a well site for public drinking water at least 150 feet from a septic tank drainfield and ensure livestock are not allowed within 50 feet of the well. Specifically, at the time of the investigation, it was documented that the well was approximately 50 feet from a septic tank/cesspool that did not have a drainfield and a hose was being used to drain the sewage within 10 feet of the well. In addition, livestock were within 5 feet of the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to locate the well site at least 150 feet from a septic tank will or could expose the water supply's source water to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

42 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the investigation date, March 6, 2008, to the screening date April 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,764

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez
Case ID No. 35760
Reg. Ent. Reference No. RN105473599
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)	\$8,000	6-Mar-2008	30-Apr-2011	3.15	\$84	\$1,680	\$1,764
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to relocate the septic tank at a distance of 150 feet or greater from the well location and ensuring livestock are not within 50 feet of the well, 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

\$8,000

TOTAL

\$1,764

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zolla Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(O)

Violation Description

Failed to provide an intruder-resistant fence or lockable building to protect the water system well. Specifically, at the time of the investigation, it was documented that the fence around the well was not constructed with metal and did not have 3 strands of barbed wire on the top of the fence.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide an intruder-resistant fence for the well may allow unauthorized persons to enter and damage or vandalize the well which may compromise the system's ability to provide a safe and adequate water supply exposing customers to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

42 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the investigation date, March 6, 2008, to the screening date April 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$441

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez
Case ID No. 35760
Reg. Ent. Reference No. RN105473599
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	\$2,000	6-Mar-2008	30-Apr-2011	3.15	\$21	\$420	\$441
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to install 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

\$2,000

TOTAL

\$441

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description Failed to provide a flow measuring device for the water system well to measure production yields and provide for the accumulation of water production data.

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 provide a flow measuring device could possibly contribute to an inadequate water supply because the operator cannot make the necessary production and usage calculations to ensure a continuous and safe water supply, which could expose customers to an insignificant amount of pollutants that would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 42

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

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$64

Violation Final Penalty Total \$50

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

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$300	6-Mar-2008	31-Mar-2011	3.07	\$3	\$61	\$64
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to install a flow measuring device at the well, 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

\$300

TOTAL

\$64

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(J)

Violation Description

Failed to provide the well with a concrete sealing block extending a minimum of three feet from the exterior well casing in all directions. Specifically, at the time of the investigation, it was documented that the concrete sealing block was 2 feet long by 4 feet wide.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have a sealing block that extends a minimum of three feet from the well in all directions could expose customers of the water supply to significant amounts contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

42 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the investigation date, March 6, 2008, to the screening date, April 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$110

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez
Case ID No. 35760
Reg. Ent. Reference No. RN105473599
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)	\$500	6-Mar-2008	30-Apr-2011	3.15	\$5	\$105	\$110
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 includes the amount to provide a sealing block extending three feet in all directions, 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

\$500

TOTAL

\$110

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.42(b)(1)

Violation Description Failed to provide disinfection facilities for all ground water supplies for the purpose of microbiological control and distribution protection.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

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

Matrix Notes Failure to install disinfection equipment would not allow for proper disinfection and bacteria could form in the water supply exposing 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 42

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

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the investigation date, March 6, 2008, to the screening date, April 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$322

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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	\$1,500	6-Mar-2008	31-Mar-2011	3.07	\$15	\$307	\$322
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount necessary to install disinfection equipment, 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

\$1,500

TOTAL

\$322

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 6

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

Violation Description Failed to compile and maintain records of water works operation and maintenance activities for operator reference and Commission review during investigations.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 42

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$145

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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	\$945	6-Mar-2008	31-Mar-2011	3.07	\$145	n/a	\$145
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to provide and begin maintaining a record of all the water system's operating and maintenance activities (\$45/record x 21 records), 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

\$945

TOTAL

\$145

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 7

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

Violation Description Failed to secure a sanitary control easement covering land within 150 feet from the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to secure a sanitary control easement could expose customers of the water supply to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

1

42 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$50

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

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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
<small>No commas or \$</small>							

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	\$20	6-Mar-2008	30-Apr-2011	3.15	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to secure a sanitary control easement covering land within 150 feet of the well, 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

\$20

TOTAL

\$3

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(K)

Violation Description

Failed to properly seal the well head and provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and located as to minimize the drawing of contaminants into the well. Specifically, at the time of the investigation, it was documented that the well was not properly sealed and did not have a well casing vent.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have a well casing vent would not allow the well to equalize the air pressure within the well during operation which could expose the public to significant amounts of contaminants that would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

2

42 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, March 6, 2008, to the screening date April 17, 2008.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$110

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	6-Mar-2008	30-Apr-2011	3.15	\$5	\$105	\$110
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 amount to properly seal the well head and install a well casing vent on the well, 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

\$500

TOTAL

\$110

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 9

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

Violation Description

Failed to provide written notification of the reactivation of an existing public water system to the Commission. Specifically, at the time of the investigation, it was documented that the Respondents own a public water supply well that has been providing water to an adjacent restaurant without providing notification to the Commission of reactivating the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

42 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10	6-Mar-2008	31-Mar-2011	3.07	\$0	\$2	\$2
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount necessary to provide notice and receive approval from the Commission for the reactivation of a public water supply, 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

\$10

TOTAL

\$2

Screening Date 17-Apr-2008

Docket No. 2008-0708-PWS-E

PCW

Respondent Roberto Mendez and Zoila Mendez

Policy Revision 2 (September 2002)

Case ID No. 35760

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105473599

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson-Mgbeoduru

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(A)

Violation Description Failed to submit well completion data. Specifically, at the time of the investigation, it was documented that the Respondents did not have well completion data.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 42

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

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$77

Violation Final Penalty Total \$100

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Roberto Mendez and Zoila Mendez

Case ID No. 35760

Reg. Ent. Reference No. RN105473599

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

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)	\$500	6-Mar-2008	31-Mar-2011	3.07	\$77	n/a	\$77

Notes for DELAYED costs

The delayed costs include the amount necessary to compile and submit well completion data to the Commission, 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

\$500

TOTAL

\$77

Compliance History

Customer/Respondent/Owner-Operator:	CN603330382 MENDEZ, ROBERTO	Classification:	Rating:
Regulated Entity:	RN105473599 LANES CAFE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2410021
Location:	5164 FARM-TO-MARKET 1017, SAN ISIDRO, STARR COUNTY, TX		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	April 15, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 14, 2003 to April 14, 2008		

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? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership 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 04/11/2008 (639961)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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

Compliance History

Customer/Respondent/Owner-Operator:	CN603348780 MENDEZ, ZIOLA	Classification:	Rating:
Regulated Entity:	RN105473599 LANES CAFE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	2410021
Location:	5164 FARM-TO-MARKET 1017, SAN ISIDRO, STARR COUNTY, TX		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	April 28, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 14, 2003 to April 14, 2008		
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? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership 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 04/11/2008 (639961)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
ROBERTO MENDEZ AND ZOILA
MENDEZ
RN105473599**

§
§
§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-0708-PWS-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondents own and operate a public water supply at 5164 Farm-to-Market Road 1017 in San Isidro, Starr County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
3. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about April 15, 2008.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid One Thousand Eight Hundred Dollars (\$1,800) of the administrative penalty and Five Hundred Dollars (\$500) is deferred

contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Agreed Order. The remaining amount of Two Hundred Dollars (\$200) of the administrative penalty shall be payable within 30 days after the effective date of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondents to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owners of the Facility, the Respondents are alleged to have:

1. Failed to locate a well site for public drinking water at least 150 feet from a septic tank drainfield and ensure livestock are not allowed within 50 feet of the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) and 290.41(c)(1)(D), as documented during an investigation conducted on March 6, 2008.
2. Failed to provide an intruder-resistant fence or lockable building to protect the water system well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O), as documented during an investigation conducted on March 6, 2008.
3. Failed to provide a flow measuring device for the water system well to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on March 6, 2008.
4. Failed to provide the well with a concrete sealing block extending a minimum of three feet from the exterior well casing in all directions, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(J), as documented during an investigation conducted on March 6, 2008.

5. Failed to provide disinfection facilities for all ground water supplies for the purpose of microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1), as documented during an investigation conducted on March 6, 2008.
6. Failed to compile and maintain records of water works operation and maintenance activities for operator reference and Commission review during investigations, in violation of 30 TEX. ADMIN. CODE § 290.46(f), as documented during an investigation conducted on March 6, 2008.
7. Failed to secure sanitary control easements covering land within 150 feet of the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on March 6, 2008.
8. Failed to properly seal the well head and provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and are located as to minimize the drawing of contaminants into the well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(K), as documented during an investigation conducted on March 6, 2008.
9. Failed to provide written notification of the reactivation of an existing public water system to the Commission, in violation of 30 TEX. ADMIN. CODE § 290.39(m), as documented during an investigation conducted on March 6, 2008.
10. Failed to submit well completion data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(A), as documented during an investigation conducted on March 6, 2008.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Roberto Mendez and Zoila Mendez, Docket No. 2008-0708-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. Roberto Mendez and Zoila Mendez, the Respondents, are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. It is further ordered that the Respondents shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order:

- i. Install a flow measuring device on the Facility's well, in accordance with 30 TEX. ADMIN. CODE § 290.41;
- ii. Install disinfection equipment so that continuous and effective disinfection can be secured under all conditions, in accordance with 30 TEX. ADMIN. CODE § 290.42;
- iii. Develop and begin maintaining records of water works operations and maintenance activities, in accordance with 30 TEX. ADMIN. CODE § 290.46;
- iv. Provide notification to the Executive Director of the reactivation of the public water supply, in accordance with 30 TEX. ADMIN. CODE § 290.39. The notification shall be submitted to:

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

b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.

c. Within 60 days after the effective date of this Agreed Order:

- i. Provide the well with an intruder-resistant fence that includes three strands of barbed wire on the top of the fence and a lockable gate or enclose the well in a locked ventilated well house to exclude possible contamination or damage to the facilities by trespassers, in accordance with 30 TEX. ADMIN. CODE § 290.41;
- ii. Provide a concrete sealing block for the well that extends at least three feet in all directions from the well casing, in accordance with 30 TEX. ADMIN. CODE § 290.41;
- iii. Properly seal the well head and provide a well casing vent with an opening that is covered with a 16-mesh or finer corrosion resistant screen, facing downward, elevated, and located as to minimize the drawing of

contaminants into the well, in accordance with 30 TEX. ADMIN. CODE § 290.41; and

- iv. Secure a sanitary easement covering all property within 150 feet of the well location from adjacent landowners and record the deeds at the county courthouse, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.
- e. Within 90 days after the effective date of this Agreed Order, submit well completion data, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- f. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.e.
- g. Within 180 days after the effective date of this Agreed Order, ensure the well site is not located within 150 feet of the septic tank drainfield and livestock is not located within 50 feet, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- h. 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. 3.g. 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 fine 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are 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.
5. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sralin
For the Executive Director

1/11/2011
Date

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

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

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

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

Roberto Mendez
Signature

December 24, 2010
Date

R. M.
Name (Printed or typed)
Authorized Representative of
Roberto Mendez

Owner
Title

Zoila A. Mendez
Signature

Dec. 24, 2010
Date

Z.A.M.
Name (Printed or typed)
Authorized Representative of
Zoila Mendez

Owner
Title

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