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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1075-PWS-E **TCEQ ID:** RN105449151 **CASE NO.:** 39961
RESPONDENT NAME: Feron Corporation dba Zebra Show Bar

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: Zebra Show Bar, 7700 South Desert Boulevard, Anthony, El Paso County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 13, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Dr. Manuel Hernandez, Owner, Zebra Show Bar, 2415 Montana Avenue, El Paso, Texas 79903 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 21, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 14, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice 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)].</p>	<p>Total Assessed: \$10,318</p> <p>Total Deferred: \$2,063 <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: \$227 (remaining \$8,028 due in 36 monthly payments of \$223 each)</p> <p>Compliance History Classifications: 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 Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting;</p> <p>b. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): PWS ID 0710189



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	30-Jun-2010	Screening	30-Jun-2010	EPA Due	28-Feb-2009
	PCW	3-Aug-2010				

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

CASE INFORMATION			
Enf./Case ID No.	39961	No. of Violations	1
Docket No.	2010-1075-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for one prior order with denial of liability and one prior order without denial of liability.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit **Subtotal 6**

Total EB Amounts	\$897	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$875	

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

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

Screening Date 30-Jun-2010

Docket No. 2010-1075-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 39961

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 45%

>> 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 one prior order with denial of liability and one prior order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 30-Jun-2010

Docket No. 2010-1075-PWS-E

PCW

Respondent Feron Corporation dba Zebra Show Bar

Policy Revision 2 (September 2002)

Case ID No. 39981

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105449151

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of March 2008 through April 2010 and failed to provide public notice of the failure to sample for the months of March 2008 through March 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	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to collect coliform monitoring samples could expose consumers to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 26 Number of violation days 790

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$6,500

Twenty-six monthly events are recommended, calculated for the months in which no routine samples were collected.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$6,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$897

Violation Final Penalty Total \$10,318

This violation Final Assessed Penalty (adjusted for limits) \$10,318

Economic Benefit Worksheet

Respondent: Feron Corporation dba Zebra Show Bar

Case ID No: 39981

Reg. Ent. Reference No: RN105449151

Media: Public Water Supply

Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	21-May-2010	1-Mar-2011	0.78	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date. The final date is 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
Personal				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]	\$650	1-Mar-2008	30-Apr-2010	3.08	\$100	\$650	\$750
Other (as needed)	\$125	1-Jul-2008	1-Jul-2010	2.92	\$18	\$125	\$143

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of 26 routine samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$875

TOTAL

\$897

Description: Failed to maintain the facility's storage tank in strict accordance with current American Water Works Association ("AWWA") standards.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)

Description: Failed to provide the three pressure tanks with pressure release devices.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)

Description: Failed to locate the water line a minimum of 24 inches below the ground surface.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.40(a)

30 TAC Chapter 290, SubChapter D 290.46(a)

5A THSC Chapter 341, SubChapter A 341.035(a)

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

Classification: Moderate

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

30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)

5A THSC Chapter 341, SubChapter A 341.0315(c)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)

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

Classification: Moderate

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

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

Classification: Moderate

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

Description: Failed to maintain plans, specifications, maps, and other pertinent information on file.

Classification: Moderate

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

Description: Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e).

Classification: Moderate

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

Description: Failed to ensure that all water system electrical wiring is securely installed in compliance with a local or national electrical code.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failed to measure the free chlorine residual within the distribution system with a colorimeter, spectrophotometer, or color comparator test kit which measures the free chlorine residual to a minimum accuracy of plus or minus 0.1 mg/L.

Classification: Moderate

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

Description: Failed to conduct an annual inspections of the three pressure tanks.

Effective Date: 06/26/2010

ADMINORDER 2009-1943-PWS-E

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Rqmt Prov: OP 2.b.ii. ORDER

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

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(G)

Rqmt Prov: OP 2.c.i. ORDER

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

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)

Rqmt Prov: OP 2.c.iv. ORDER

Description: Failed to seal the wellhead with a gasket or sealing compound.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(Q)
Rqmt Prov: OP 2.c.v. ORDER
Description: Failed to properly install an air release device on the discharge piping of the well in such a manner to preclude the possibility of submergence or entrance of contaminants.
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(i)
Rqmt Prov: OP 2.c.vii. ORDER
Description: Failed to provide water system records to Commission personnel at the time of the investigation.
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
Rqmt Prov: OP 2.c.viii. ORDER
Description: Failed to maintain plans, specifications, maps, and other pertinent information on file.
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Rqmt Prov: OP 2.c.ix. ORDER
Description: Failed to conduct an annual inspection of the ground storage tank.
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(7)
Rqmt Prov: OP 2.e.ii. ORDER
Description: Failed to properly cover the air release device in the middle of the discharge line with a 16-mesh or finer corrosion-resistant screen to preclude the possibility of submergence or entrance of contaminants.
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)
Rqmt Prov: OP 2.e.iii. ORDER
Description: Failed to locate the water line a minimum of 24 inches below the ground surface.
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.40(a)
 30 TAC Chapter 290, SubChapter D 290.46(a)
 5A THSC Chapter 341, SubChapter A 341.035(a)
Rqmt Prov: OP 2.e.iv. ORDER
Description: Failed to obtain approval by the Executive Director for the construction of a public water system.
Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
Description: Failed to enclose the well with an intruder-resistant fence or lockable ventilated well house.
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)
Description: Failed to locate the Facility's well at least 150 feet away from a septic tank perforated drainfield.
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Rqmt Prov: 2008-0546-PWS-E OP 2.c.ix ORDER
Description: Failed to conduct annual inspections of the three pressure tanks.

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	05/19/2009	(745573)
2	11/16/2009	(778730)
3	03/02/2010	(791207)
4	06/21/2010	(824304)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FERON CORPORATION DBA
ZEBRA SHOW BAR
RN105449151

§
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§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1075-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 Feron Corporation dba Zebra Show Bar ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 7700 South Desert Boulevard in Anthony, El Paso County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 19, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Ten Thousand Three Hundred Eighteen Dollars (\$10,318) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Seven Dollars (\$227) of the administrative penalty and Two Thousand Sixty-Three Dollars (\$2,063) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eight Thousand Twenty-Eight Dollars (\$8,028) of the administrative penalty shall be payable in 36 monthly payments of Two Hundred Twenty-Three Dollars (\$223) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
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 owner and operator of the Facility, the Respondent is alleged to have failed to collect routine distribution water samples for coliform analysis and failed to provide public notice 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), as documented during a record review conducted on May 21, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Feron Corporation dba Zebra Show Bar, Docket No. 2010-1075-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting;
 - b. Within 30 days after the effective date of this Agreed Order, implement procedures to ensure that 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
 - c. Within 180 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 Nos. 2.a and 2.b. 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:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the the Respondent, or three days after the date on which the Commission mails notice of the Order to the the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

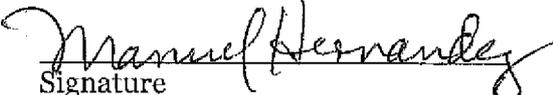
Date 11/22/2010

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

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

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

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



Signature

Date 10/15/10

Manuel Hernandez
Name (Printed or typed)
Authorized Representative of
Feron Corporation dba Zebra Show 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 IV, Paragraph 1 of this Agreed Order.