

Executive Summary – Enforcement Matter – Case No. 31226
Felipe Posada d/b/a Key Road Subdivision Water Supply
RN104814447
Docket No. 2010-1586-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
4091 Key Road, Bloomington, Victoria County

Type of Operation:
Public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$3,522.02 (2006-1698-PWS-E)
Past-Due Fees:	\$499.98
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: May 13, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$88,933

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$88,933

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Docket No. 2010-1586-PWS-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 30, 2010
Date(s) of NOV(s): See Compliance History – 28 related NOVs
Date(s) of NOE(s): August 23, 2010

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and § 290.122(c)(2)(A), TEX. HEALTH & SAFETY CODE § 341.033(d) and TCEQ Default Order Number 2006-1698-PWS-E, Ordering Provision Number 2.a.iv.].
2. Failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(A), TEX. HEALTH & SAFETY CODE § 341.033(d), and TCEQ Default Order Docket Number 2006-1698-PWS-E, Ordering Provision Number 2.b.].
3. Failed to maintain a record of water works operation and maintenance activities [30 TEX. ADMIN. CODE § 290.46(f), (f)(3)(A)(ii)(III), (f)(3)(A)(iii), (f)(3)(A)(iv), and (f)(3)(A)(vi) and TCEQ Default Order Docket Number, Ordering Provision Number 2.a.i.].
4. Failed to maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN. CODE § 290.121(a) and TCEQ Default Order Docket Number 2006-1698-PWS-E, Ordering Provision Number 2.a.iii.].
5. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A) and TCEQ Default Order Docket Number 2006-1698-PWS-E, Ordering Provision Number 2.a.ii.].
6. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration (FA) Account Number 92360055 for Fiscal Year 2010 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action Completed:

N/A

Technical Requirements:

1. Within 10 days:
 - a. Begin monitoring the disinfectant residual at representative locations in the distribution system at least once every seven days utilizing an approved method; and
 - b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
2. Within 30 days:
 - a. Begin operating the facility under the direct supervision of a water works operator who holds a Class "D" or higher license;

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- b. Begin maintaining facility records, including but not limited to, the following records: amount of water treated each week, a record of complaints received, dates dead-end mains were flushed, and maintenance records of daily/monthly work performed;
 - c. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the facility; and
 - d. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account Number 92350055.
3. Within 60 days, develop and begin maintaining an up to date chemical and microbiological monitoring plan.
 4. Submit written certification demonstrating compliance:
 - a. Within 15 days for Technical Requirement No. 1.a.;
 - b. Within 45 days for Technical Requirement No. 2.;
 - c. Within 75 days for Technical Requirement No. 3.; and
 - d. Within 195 days for Technical Requirement No.1.b.

Litigation Information

Date Petition Filed: December 3, 2010
Date Green Card Signed: Unclaimed
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Anna M. Treadwell, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Epifanio Villarreal, Water Enforcement Section, (361) 825- 3425
TCEQ Regional Contact: Kelly Ruble, Corpus Christi Regional Office, MC R-14, (361) 825- 3113
Respondent: Felipe Posada, P.O. Box 162, Bloomington, Texas 77951
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Aug-2010	Screening	24-Sep-2010	EPA Due	31-May-2009
	PCW	24-Sep-2010				

RESPONDENT/FACILITY INFORMATION						
Respondent	Felipe Posada dba Key Road Subdivision Water Supply					
Reg. Ent. Ref. No.	RN104814447					
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	31226	No. of Violations	6			
Docket No.	2010-1586-PWS-E	Order Type	Findings			
Media Program(s)	Public Water Supply	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Epifanio Villarreal			
		EC's Team	Enforcement Team 2			
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000			

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$19,400
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	171.0%	Enhancement	Subtotals 2, 3, & 7	\$33,174
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Notes: Enhancement for 28 NOVs with same/similar violations, three dissimilar NOVs and one default order without denial.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$9,700
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Total EB Amounts	\$26,715	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$12,530	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$62,274
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OTHER FACTORS AS JUSTICE MAY REQUIRE	42.8%	Adjustment	\$26,659
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance for violation nos. 1, 2 and 5.

Final Penalty Amount	\$88,933
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$88,933
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$88,933
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Screening Date 24-Sep-2010

Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Su

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	28	140%
	Other written NOVs	3	6%
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	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 171%

>> 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 28 NOVs with same/similar violations, three dissimilar NOVs and one default order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 171%

Screening Date 24-Sep-2010

Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Supply

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

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)(A) and Tex. Health & Safety Code § 341.033(d) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision 2.a.iv

Violation Description Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples. Specifically, based on a review of records, the Respondent failed to collect routine distribution water samples for coliform analysis for the months of July 2008 through May 2010 and failed to provide public notice of the failure to collect routine samples for the months of August 2008 through May 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> 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 23 807 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,750

Twenty-three monthly events are recommended for the months in which no samples were submitted after the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E, July 9, 2008.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$5,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,312

Violation Final Penalty Total \$26,359

This violation Final Assessed Penalty (adjusted for limits) \$26,359

Economic Benefit Worksheet

Respondent Felipe Posada dba Key Road Subdivision Water Supply
Case ID No. 31226
Req. Ent. Reference No. RN104814447
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	30-Jul-2010	1-May-2011	0.75	\$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
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]	\$575	31-Jul-2008	31-May-2010	2.75	\$79	\$575	\$654
Other (as needed)	\$575	1-Nov-2008	1-Sep-2010	2.75	\$79	\$575	\$654

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of 23 routine samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$25 per notice), calculated from the date the first sample was due after the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E and during the months where no public notification was provided.

Approx. Cost of Compliance

\$1,250

TOTAL

\$1,312

Screening Date 24-Sep-2010

Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Supply

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(A) and Tex. Health & Safety Code § 341.033(a) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision 2.b

Violation Description Failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failing to employ a licensed water works operator could lead to improper management of the Facility and expose customers to a significant amount of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 27 807 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$6,750

Twenty-seven monthly events are recommended from the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E, July 9, 2008, to the date of screening, September 24, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24,144

Violation Final Penalty Total \$30,943

This violation Final Assessed Penalty (adjusted for limits) \$30,943

Economic Benefit Worksheet

Respondent Felipe Posada dba Key Road Subdivision Water Supply
Case ID No. 31226
Req. Ent. Reference No. RN104814447
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel	\$10,400	9-Jul-2008	24-Sep-2010	2.21	\$1,150	\$22,994	\$24,144
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

The avoided costs include the estimated amount to employ a part-time licensed operator (calculated at \$10.00 per hour x 20 hours/week x 52 weeks), calculated from the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E to the date of screening.

Approx. Cost of Compliance

\$10,400

TOTAL

\$24,144

Screening Date 24-Sep-2010 Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Supply

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f), (f)(3)(A)(ii)(III), (f)(3)(A)(iii), (f)(3)(A)(iv), and (f)(3)(A)(vi) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision 2.a.i

Violation Description Failed to maintain a record of water works operation and maintenance activities. Specifically, at the time of the record review, it was documented that the Respondent had failed to submit the following records: amount of water treated weekly, complaints received, dates dead-ends are flushed, maintenance records of daily/monthly of work performed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		5%

Matrix Notes 30% to 70% of rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 Number of violation days 807

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$229

This violation Final Assessed Penalty (adjusted for limits) \$229

Economic Benefit Worksheet

Respondent Felipe Posada dba Key Road Subdivision Water Supply
Case ID No. 31226
Req. Ent. Reference No. RN104814447
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$180	9-Jul-2008	1-May-2011	2.81	\$25	n/a	\$25
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a record-keeping system, calculated from the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E, to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$25

Screening Date 24-Sep-2010

Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Supply

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision 2.a.iii

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

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 807 Number of violation days

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

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$27

Violation Final Penalty Total \$458

This violation Final Assessed Penalty (adjusted for limits) \$458

Economic Benefit Worksheet

Respondent Felipe Posada dba Key Road Subdivision Water Supply
Case ID No. 31226
Req. Ent. Reference No. RN104814447
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$180	9-Jul-2008	1-Jul-2011	2.98	\$27	n/a	\$27
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to develop and begin maintaining a chemical and microbiological monitoring plan, calculated from the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E, to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$27

Screening Date 24-Sep-2010

Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Supply

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(4)(A) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision 2.a.ii

Violation Description Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.

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 monitor disinfectant residual at representative locations could result in non-detection of low chlorine residuals thereby exposing customers to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 27 807 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$6,750

Twenty-seven monthly events are recommended from the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E, July 9, 2008, to the date of screening, September 24, 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,207

Violation Final Penalty Total \$30,943

This violation Final Assessed Penalty (adjusted for limits) \$30,943

Economic Benefit Worksheet

Respondent Felipe Posada dba Key Road Subdivision Water Supply
Case ID No. 31226
Req. Ent. Reference No. RN104814447
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$520	9-Jul-2008	24-Sep-2010	2.21	\$57	\$1,150	\$1,207
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform weekly monitoring of the disinfectant residual in the system (\$10 per week), calculated from the effective date of TCEQ Default Order Docket No. 2006-1698-PWS-E to the date of screening.

Approx. Cost of Compliance

\$520

TOTAL

\$1,207

Screening Date 24-Sep-2010

Docket No. 2010-1586-PWS-E

PCW

Respondent Felipe Posada dba Key Road Subdivision Water Supply

Policy Revision 2 (September 2002)

Case ID No. 31226

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104814447

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702

Violation Description Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 92350055 for Fiscal Year 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%). Matrix Notes section below.

Adjustment \$1,000

\$0

Violation Events

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

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

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A, Notes.

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent Felipe Posada dba Key Road Subdivision Water Supply
Case ID No. 31226
Req. Ent. Reference No. RN104814447
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

N/A

Avoided Costs

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

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

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602960692	POSADA, FELIPE	Classification:	Rating:
Regulated Entity:	RN104814447	KEY ROAD SUBDIVISION WATER SUPPLY	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	2350055
Location:	4091 KEY ROAD, BLOOMINGTON VICTORIA COUNTY, TEXAS			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	September 24, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 24, 2005 to September 24, 2010			

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

Name: Epi Villarreal Phone: (361) 825-3425

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 07/09/2008

ADMINORDER 2006-1698-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to submit samples for microbiological analyses as required by 30 Tex. Admin. Code Chapter 290 subchapter F.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)
 5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failure to employ an operator who holds a class "D" or higher license, for purchase water systems serving no more than 250 connections.

Classification: Moderate

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

Description: Failure to maintain records of operation including the amt. of chemicals used weekly, amt. of water treated weekly, complaints rec., dates dead-ends flushed, date storage tanks or other facilities are cleaned, maint. records, and daily/monthly sum. of work performed and the number of hours worked by part time operators

Classification: Moderate

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

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)

Description: Failure to monitor the disinfectant residual (free chlorine residual) at representative locations in the distribution system at least once every seven days.

- 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	06/23/2006	(483698)
2	09/08/2006	(511514)
3	10/25/2006	(538157)
4	11/21/2006	(539244)
5	12/21/2006	(539258)
6	01/26/2007	(539271)
7	02/21/2007	(540643)
8	03/05/2007	(542437)
9	02/20/2008	(792501)
10	06/03/2008	(681932)
11	04/30/2009	(742994)
12	03/08/2010	(794456)
13	03/08/2010	(794470)
14	03/25/2010	(794961)
15	07/11/2010	(830285)
16	07/30/2010	(843127)
17	07/30/2010	(843134)
18	07/30/2010	(843141)
19	08/03/2010	(843148)
20	08/03/2010	(843151)
21	08/03/2010	(843157)
22	08/03/2010	(843164)
23	08/03/2010	(843171)
24	08/03/2010	(843173)
25	08/03/2010	(843188)
26	08/03/2010	(843200)
27	08/03/2010	(843242)
28	08/03/2010	(843248)
29	08/03/2010	(843257)
30	08/03/2010	(843259)
31	08/03/2010	(843264)
32	08/03/2010	(843268)
33	08/03/2010	(843275)
34	08/03/2010	(843282)
35	08/03/2010	(843285)
36	08/03/2010	(843290)
37	08/23/2010	(742519)

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

Date:	02/24/2006	(455309)	CN602960692
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(f)(1)		
Description:	Failure to secure a written contract, a signed document of specific terms, or a memorandum or letter of understanding between the purchaser and wholesaler which authorizes the purchase of water.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 5A THC Chapter 341, SubChapter A 341.033(d)		
Description:	Failure to submit samples for microbiological analyses as required by 30 Tex. Admin. Code Chapter 290 subchapter F.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e) 5A THC Chapter 341, SubChapter A 341.033(a)		
Description:	Failure to employ an operator who holds a class "D" or higher license, for purchase water systems serving no more than 250 connections.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)		
Description:	Failure to maintain records of operation including the amt. of chemicals used weekly, amt. of water treated weekly, complaints rec., dates dead-ends flushed,		

date storage tanks or other facilities are cleaned, maint. records, and daily/monthly sum. of work performed and the number of hours worked by part time operators

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)
Description: Failure to monitor the disinfectant residual (free chlorine residual) at representative locations in the distribution system at least once every seven days.

Date: 10/25/2006 (538157) CN602960692

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring sample(s) for 09/2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 09/2006.

Date: 11/21/2006 (539244) CN602960692

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring sample(s) for 10/2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 10/2006.

Date: 12/21/2006 (539258) CN602960692

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.001(1)
Description: Failure to collect any routine monitoring sample(s) for 11/2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 11/2006.

Date: 01/26/2007 (539271) CN602960692

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring sample(s) for 12/2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 12/2006.

Date: 02/21/2007 (540643) CN602960692

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring sample(s) for 01/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: Failure to post PN for not collecting any routine monitoring sample(s) in 01/2007.

Date: 02/20/2008 (792501) CN602960692

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2006 to its bill-paying customers.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2006 CCR year to the TCEQ.

Date: 10/10/2008 (830285) CN602960692

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 11/19/2008 (843127) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/09/2008 (843134) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

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

Date: 01/13/2009 (843141) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

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

Date: 01/14/2009 (794456) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
 30 TAC Chapter 290, SubChapter H 290.274(a)
 Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2007 to its bill-paying customers.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
 Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2007 CCR year to TCEQ.

Date: 03/09/2009 (843148) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

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

Date: 04/07/2009 (843151) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).

Date: 05/06/2009 (843157) CN602960692

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).

Date: 05/26/2009 (843164) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).

Date: 06/15/2009 (843171) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 04/2009 - Failure to collect any routine monitoring sample(s).

Date: 07/14/2009 (843173) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).

Date: 08/04/2009 (843188) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 06/2009 - Failure to collect any routine monitoring sample(s).

Date: 09/16/2009 (843200) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 07/2009 - Failure to collect any routine monitoring sample(s).

Date: 10/02/2009 (843242) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 08/2009 - Failure to collect any routine monitoring sample(s).

Date: 11/03/2009 (794470) CN602960692
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
 30 TAC Chapter 290, SubChapter H 290.274(a)
 Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
 Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to TCEQ.
 Date: 11/05/2009 (843248) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).
 Date: 12/08/2009 (843257) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 10/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 01/13/2010 (843259) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 01/26/2010 (843264) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 12/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 03/16/2010 (843268) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2010 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 03/29/2010 (843275) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 02/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 05/03/2010 (843282) CN602960692
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 03/2010 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 03/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 06/10/2010 (843285) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 04/2010 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 04/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
 Date: 07/06/2010 (843290) CN602960692
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 05/2010 - Failure to collect any routine monitoring sample(s).

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FELIPE POSADA D/B/A KEY
ROAD SUBDIVISION WATER
SUPPLY;
RN104814447**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1586-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Felipe Posada d/b/a Key Road Subdivision Water Supply ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 4091 Key Road, Bloomington, Victoria County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 16 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on July 30, 2010, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples. Specifically, Respondent failed to collect routine distribution water samples for coliform analysis for the months of July 2008 through May 2010 and failed to provide public notice of the failure to collect routine samples for the months of August 2008 through May 2010;
 - b. Failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license;
 - c. Failed to maintain a record of water works operation and maintenance activities. Specifically, Respondent failed to submit the following records: amount of water treated weekly, complaints received, dates dead-ends are flushed, and maintenance records of daily/monthly work performed;

- d. Failed to maintain an up-to-date chemical and microbiological monitoring plan;
 - e. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days; and
 - f. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration ("FA") Account No. 92350055 for Fiscal Year 2010.
3. Respondent received notice of the violations on or about August 28, 2010.
 4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Felipe Posada d/b/a Key Road Subdivision Water Supply," (the "EDPRP") in the TCEQ Chief Clerk's office on December 3, 2010.
 5. By letter dated December 3, 2010, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
 6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A), TEX. HEALTH & SAFETY CODE § 341.033(d), and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision No. 2.a.iv.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(A), TEX. HEALTH & SAFETY CODE § 341.033(a), and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision No. 2.b.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to maintain a record of water works operation and maintenance activities, in violation of 30 TEX. ADMIN. CODE

§ 290.46(f), (f)(3)(A)(ii)(III), (f)(3)(A)(iii), (f)(3)(A)(iv), and (f)(3)(A)(vi) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision No. 2.a.i.

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision No. 2.a.iii.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A) and TCEQ Default Order Docket No. 2006-1698-PWS-E, Ordering Provision No. 2.a.ii.
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to pay public health service fees, including late fees, for TCEQ FA Account No. 92350055 for Fiscal Year 2010, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
8. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
9. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
10. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of eighty-eight thousand nine hundred thirty-three dollars (\$88,933.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of eighty-eight thousand nine hundred thirty-three dollars (\$88,933.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The

Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Felipe Posada d/b/a Key Road Subdivision Water Supply; Docket No. 2010-1586-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, Respondent shall:
 - i. Begin monitoring the disinfectant residual at representative locations in the distribution system at least once every seven days utilizing an approved method, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 6); and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting (Conclusion of Law No. 2).
 - b. Within 15 days after the effective date of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.g, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.i.;
 - c. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Begin operating the Facility under the direct supervision of a water works operator who holds a Class "D" or higher license, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 3);
 - ii. Begin maintaining Facility records, including but not limited to, the following records: amount of water treated each week, a record of complaints received, dates dead-end mains were flushed, and maintenance records of daily/monthly work performed, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 4);
 - iii. 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 (Conclusion of Law No. 2);

and

- iv. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 92350055 (Conclusion of Law No. 7). The payment shall be sent with the notation "Felipe Posada d/b/a Key Road Subdivision Water Supply, FA Account No. 92350055" 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

- d. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.g, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.c.;
- e. Within 60 days after the effective date of this Order, Respondent shall develop and begin maintaining an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121 (Conclusion of Law No. 5);
- f. Within 75 days after the effective date of this Order, Respondent shall submit written certification as described below in Ordering Provision No. 3.g, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.e.; and
- g. Within 195 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a.ii. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Kelly Ruble, Water Section Manager
Texas Commission on Environmental Quality
Corpus Christi Regional Office
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ANNA TREADWELL

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Anna Treadwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Felipe Posada dba Key Road Subdivision Water Supply," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 3, 2010.

The EDPRP was mailed to Respondent's last known address on December 3, 2010 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

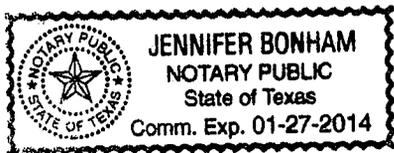
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

Anna Treadwell

Anna Treadwell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Anna Treadwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 21st day of April, A.D. 2011.



Notary Without Bond

Jennifer Bonham
Notary Signature