

Executive Summary – Enforcement Matter – Case No. 41093
Rays Acquisition Company LLC
RN105915656
Docket No. 2011-0182-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Fetzer City Restaurant, 45550 Farm-to-Market Road 1774, Plantersville, Waller County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 10, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,483

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$114

Total Due to General Revenue: \$2,369

Payment Plan: 23 payments of \$103 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 4, 2011 and January 31, 2011

Date(s) of NOE(s): January 21, 2011

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

2. Failed to pay public health service fees, including late fees [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 10 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliance monitoring and reporting.
- b. Within 30 days, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 92370100.
- c. Within 45 days, submit written certification demonstrating compliance with Ordering Provision b.
- d. Within 195 days, submit written certification demonstrating compliance.

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Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Andrea Byington, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-2579; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Gerald Free, Owner, Rays Acquisition Company LLC, P.O. Box 204,
Magnolia, Texas 77353-0204
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Jan-2011	Screening	26-Jan-2011	EPA Due	31-May-2011
	PCW	26-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Rays Acquisition Company LLC		
Reg. Ent. Ref. No.	RN105915656		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41093	No. of Violations	2
Docket No.	2011-0182-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Byington
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$1,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **30.0%** Enhancement *Subtotals 2, 3, & 7* **\$525**

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

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

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

Total EB Amounts: \$211
 Apprx. Cost of Compliance: \$295
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$2,275**

OTHER FACTORS AS JUSTICE MAY REQUIRE **9.1%** *Adjustment* **\$208**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs of compliance for violation no. 1.

Final Penalty Amount **\$2,483**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$2,483**

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

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 **\$2,483**

Screening Date 26-Jan-2011

Docket No. 2011-0182-PWS-E

PCW

Respondent Rays Acquisition Company LLC

Policy Revision 2 (September 2002)

Case ID No. 41093

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105915656

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

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>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> **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 six NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 26-Jan-2011

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PCW

Respondent Rays Acquisition Company LLC

Policy Revision 2 (September 2002)

Case ID No. 41093

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105915656

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

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 & Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of June 2010 through December 2010 and failed to provide public notification of the failure to sample for the months of June 2010 through September 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 7

213 Number of violation days

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

Violation Base Penalty \$1,750

Seven 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 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 \$1,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$211

Violation Final Penalty Total \$2,483

This violation Final Assessed Penalty (adjusted for limits) \$2,483

Economic Benefit Worksheet

Respondent Rays Acquisition Company LLC
Case ID No. 41093
Reg. Ent. Reference No. RN105915656
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	4-Jan-2011	1-Aug-2011	0.57	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the amount to implement training procedures necessary to ensure that public notifications are provided in a timely manner to the customers of the Facility, calculated from the record review date to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$175	30-Jun-2010	31-Dec-2010	1.42	\$12	\$175	\$187
Other (as needed)	\$20	1-Sep-2010	1-Dec-2010	1.17	\$1	\$20	\$21

Notes for AVOIDED costs

The avoided costs include the amount necessary (\$25 x 7 samples + \$5 x 4 public notices) to conduct routine coliform sampling and provide notification of the failure to collect the sample, calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$295

TOTAL

\$211

Screening Date 26-Jan-2011

Docket No. 2011-0182-PWS-E

PCW

Respondent Rays Acquisition Company LLC

Policy Revision 2 (September 2002)

Case ID No. 41093

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105915656

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Byington

Violation Number 2

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

Violation Description Failed to pay annual public health service fees, including associated late fees, for TCEQ Financial Administration Account No. 92370100 for Fiscal Year 2011.

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 []

Frequency selection table: daily, weekly, monthly, quarterly, semiannual, annual, single event. Includes instruction: mark only one with an x.

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A. Columns: Before NOV, NOV to EDPRP/Settlement Offer.

Notes []

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent Rays Acquisition Company LLC
Case ID No. 41093
Reg. Ent. Reference No. RN105915656
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

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

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603662115 RAYS ACQUISITION COMPANY LLC Classification: Rating:
Regulated Entity: RN105915656 FETZER CITY RESTAURANT Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2370100
Location: 45550 FARM-TO-MARKET ROAD 1774, PLANTERSVILLE, TEXAS
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: January 24, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 24, 2006 to January 24, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Kelly Wisian Phone: (512) 239-2570

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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 01/05/2011 | (887333) |
| 2 | 01/13/2011 | (887842) |
| 3 | 01/13/2011 | (890689) |
| 4 | 01/13/2011 | (890694) |
| 5 | 01/13/2011 | (890699) |
| 6 | 01/13/2011 | (890719) |
| 7 | 01/21/2011 | (891380) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 07/23/2010 (887333) CN603662115
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 06/2010 - Failure to collect any routine monitoring sample(s).
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 06/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).
- Date: 08/31/2010 (887842) CN603662115
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 07/2010 - Failure to collect any routine monitoring sample(s).
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 07/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/29/2010 (890689) CN603662115
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 08/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/26/2010 (890694) CN603662115
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 09/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/07/2010 (890699) CN603662115
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Date: 01/04/2011 (890719) CN603662115
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 11/2010 - 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
RAYS ACQUISITION COMPANY LLC	§	
RN105915656	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2011-0182-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Rays Acquisition Company LLC (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 45550 Farm-to-Market Road 1774 in Plantersville, Waller County, Texas (the “Facility”) that has approximately eight service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on January 4, 2011, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of June 2010 through December 2010 and did not provide public notification of the failure to collect routine samples for the months of June 2010 through September 2010.
3. During a record review on January 31, 2011, TCEQ staff documented that the Respondent did not pay annual public health service fees, including associated late fees, for TCEQ Financial Administration ("FA") Account No. 92370100 for Fiscal Year 2011.
4. The Respondent received notice of the violations on February 18, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to pay public health service fees, including late fees, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Two Thousand Four Hundred Eighty-Three Dollars (\$2,483) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Fourteen Dollars (\$114) of the administrative penalty. The remaining amount of Two Thousand Three Hundred Sixty-Nine Dollars (\$2,369) of the administrative penalty shall be payable in 23 monthly payments of One Hundred Three Dollars (\$103) 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.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Four Hundred Eighty-Three Dollars (\$2,483) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rays Acquisition Company LLC, Docket No. 2011-0182-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure 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
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliance monitoring and reporting.
 - b. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 92370100, in accordance with 30 TEX. ADMIN. CODE § 290.51. The payment shall be sent with the notation "Re: Rays Acquisition Company LLC, FA Account No. 92370100" to:

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

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.b;
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

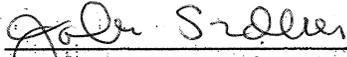
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

Date

6/16/2011

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

I understand that by entering into this Agreed Order, Rays Acquisition Company LLC waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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



Signature

Date

5-4-11

Name (Printed or typed)

Title

Authorized Representative of
Rays Acquisition Company LLC

GERALD FREE
I'm NOT HAPPY ABOUT
THIS

OWNER

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