

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44019
Paula Reagan d/b/a Lucky Roadhouse BBQ
RN106096514
Docket No. 2012-0849-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

9520 Harmonson Road, Justin, Denton County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: November 9, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,810

Total Paid to General Revenue: \$110

Total Due to General Revenue: \$2,700

Payment Plan: 27 payments of \$100 each

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 30, 2012
Date(s) of NOV(s): October 7, 2011; November 8, 2011; November 17, 2011;
November 28, 2011; January 25, 2012
Date(s) of NOE(s): February 10, 2012

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample for the months of April through August 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].
2. Failed to provide the results of annual nitrate monitoring to the TCEQ's Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
3. Failed to provide the results of triennial metal and mineral monitoring to the TCEQ's Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
4. Failed to collect routine distribution water samples for coliform analysis for the months of September through December 2011, and failed to provide public notice of the failure to sample in September 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 10 days, 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, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility.
3. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 2.
4. Within 60 days:
 - a. Ensure that all delinquent drinking water chemical analysis results are reported to the TCEQ's Executive Director or demonstrate that a compliance schedule has been established; and
 - b. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of the Executive Director's request or of their receipt by the Facility, whichever is later.
5. Within 75 days, submit written certification to demonstrate compliance with Technical Requirement No. 4.
6. Within 195 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44019
Paula Reagan d/b/a Lucky Roadhouse BBQ
RN106096514
Docket No. 2012-0849-PWS-E

Litigation Information

Date Petition(s) Filed: August 7, 2012
Date Answer(s) Filed: August 28, 2012
SOAH Referral Date: October 1, 2012
Hearing Date(s):
Preliminary Hearing: November 15, 2012 (settled)
Evidentiary Hearing: N/A
Settlement Date: September 27, 2012

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Bridgett Lee, Enforcement Division, (512) 239-2565
TCEQ Regional Contact: Sid Slocum, Dallas/Fort Worth Regional Office, (817) 588-5800
Respondent: Paula Reagan, 9520 Harmonson Road, Justin, Texas 76247
Respondent's Attorney: Roger M. Yale, Attorney-at-Law, 1512 E. McKinney Street, Suite 101
Denton, Texas 76209

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	27-Feb-2012	Screening	28-Feb-2012	EPA Due	
	PCW	29-Feb-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Paula Reagan dba Lucky Roadhouse BBO		
Reg. Ent. Ref. No.	RN106096514		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44019	No. of Violations	1
Docket No.	2012-0849-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bridgett Lee
		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	\$1,250
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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	27.0% Enhancement	Subtotals 2, 3, & 7	\$337
Notes	Enhancement for five NOV's with same/similar violations and one NOV with a dissimilar violation.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondents do 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	\$164	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$250		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,587
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.1%	Adjustment	\$160
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement recommended for the recovery of avoided costs of compliance associated with violation no. 1.		
	Final Penalty Amount	\$1,747	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,747
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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.		
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PAYABLE PENALTY	\$1,747
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Screening Date 28-Feb-2012

Docket No. 2012-0849-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 2 (September 2002)

Case ID No. 44019

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

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>)	5	25%
	Other written NOVs	1	2%
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) 27%

>> 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 five NOVs with same/similar violations and one NOV with a dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date	28-Feb-2012	Docket No.	2012-0849-PWS-E	PCW
Respondent	Paula Reagan dba Lucky Roadhouse BBQ	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	44019	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN106096514			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Bridgett Lee			

Violation Number

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 and failed to provide public notice of the failure to sample for the months of April, May, June, July, and August 2011.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>				
					Percent <input type="text" value="0%"/>

Matrix Notes Failure to collect routine coliform samples could expose the consumers of the water to undetected contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 44019
Reg. Ent. Reference No. RN106096514
Media Violation No. Public Water Supply
 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-Jan-2012	30-Nov-2012	0.84	\$4	n/a	\$4

Notes for DELAYED costs
 The delayed cost includes the estimated amount necessary to develop and implement procedures to ensure all necessary public notifications are provided in a timely manner, calculated from the date of record review 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]	\$125	1-Apr-2011	31-Aug-2011	1.33	\$8	\$125	\$133
Other (as needed)	\$25	1-May-2011	30-Nov-2011	1.50	\$2	\$25	\$27

Notes for AVOIDED costs
 The avoided costs include the estimated amount necessary to collect a total of five routine coliform samples (\$25 per sample) and provide public notification of the failure to sample (\$5 per notice), calculated for the months sampling was not conducted and the period public notice was required.

Approx. Cost of Compliance \$250

TOTAL \$164



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	27-Feb-2012	Screening	28-Feb-2012	EPA Due	
	PCW	29-Feb-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt				
Reg. Ent. Ref. No.	RN106096514				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	44019	No. of Violations	3
Docket No.	2012-0849-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bridgett Lee
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Enhancement for five NOV's with same/similar violations and one NOV with a dissimilar violation.

Culpability Enhancement **Subtotal 4**

Notes

The Respondents do not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$140
Approx. Cost of Compliance	\$549

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement recommended for the recovery of avoided costs of compliance associated with violation no. 3.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 28-Feb-2012

Docket No. 2012-0849-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt

Policy Revision 3 (September 2011)

Case ID No. 44019

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

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>)	5	25%
	Other written NOVs	1	2%
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) 27%

>> **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 five NOVs with same/similar violations and one NOV with a dissimilar violation.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 27%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 27%

Screening Date	28-Feb-2012	Docket No.	2012-0849-PWS-E	PCW
Respondent	Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44019			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106096514			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Bridgett Lee			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.106(e)

Violation Description

Failed to provide the results of annual nitrate monitoring to the TCEQ's Executive Director. Specifically, the Respondents failed to provide nitrate monitoring results for the 2011 monitoring period.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>	

Violation Base Penalty

One annual event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt
Case ID No. 44019
Reg. Ent. Reference No. RN106096514
Media Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	31-Dec-2011	30-Nov-2012	0.92	\$0	\$2	\$2
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release the nitrate monitoring results and the Respondents can provide them to the Executive Director. The date required is the date of the monitoring period in which the nitrate results were not provided, and 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$25 **TOTAL** \$2

Screening Date	28-Feb-2012	Docket No.	2012-0849-PWS-E	PCW
Respondent	Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44019			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106096514			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Bridgett Lee			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt
Case ID No. 44019
Reg. Ent. Reference No. RN106096514
Media Violation No. Public Water Supply
 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)	\$419	31-Dec-2011	30-Nov-2012	0.92	\$1	\$26	\$27
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release the metal and mineral monitoring results and the Respondents can provide them to the Executive Director. The date required is the last date of the monitoring period in which the metal and mineral records were not provided and 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$419

TOTAL \$27

Screening Date	28-Feb-2012	Docket No.	2012-0849-PWS-E	PCW
Respondent	Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	44019			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN106096514			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Bridgett Lee			

Violation Number

Rule Cite(s)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of September, October, November, and December 2011 and failed to provide public notice of the failure to sample in September 2011.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text" value="15.0%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Failure to collect routine coliform samples could expose the consumers of the water to undetected contaminants that would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ and Peggy Jo Ihnfeldt
Case ID No. 44019
Reg. Ent. Reference No. RN106096514
Media Violation No. Public Water Supply
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed cost is included in the Economic Benefit of violation no. 1 of the Revision 2 PCW.

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]	\$100	1-Sep-2011	31-Dec-2011	1.25	\$6	\$100	\$106
Other (as needed)	\$5	1-Oct-2011	31-Dec-2011	1.17	\$0	\$5	\$5

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary (\$25 per sample) to collect a total of four routine coliform samples and provide public notice of the failure to sample (\$5 per notice), calculated for the months sampling was not conducted and the period public notice was required.

Approx. Cost of Compliance

\$105

TOTAL

\$112

Compliance History Report

Customer/Respondent/Owner-Operator: CN603818642 REAGAN, PAULA Classification: Rating:
Regulated Entity: RN106096514 LUCKY ROADHOUSE BBQ Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 610267
Location: 9520 HARMONSON RD, JUSTIN, TX, 76247
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 18, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 18, 2007 to May 18, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Bridgett Lee Phone: (512) 239 - 2565

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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: 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 02/17/2012 (983025) 4 02/03/2012 (983383)
2 02/02/2012 (983061) 5 02/03/2012 (983394)
3 02/03/2012 (983370)

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

Date: 03/24/2011 (905429) CN603818642

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(m)
Description: Failure to provide written notification to the TCEQ of the startup of a new public water system.

Date: 10/07/2011 (983383) CN603818642

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/08/2011 (983061) CN603818642

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Jun/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2011.

Date: 11/17/2011 (983394) CN603818642

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

Date: 11/28/2011 (983370) CN603818642

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Jul/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2011.

Date: 01/25/2012 (983383) CN603818642

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: Aug/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2011.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PAULA REAGAN DBA LUCKY
ROADHOUSE BBQ;
RN106096514**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0849-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Paula Reagan d/b/a Lucky Roadhouse BBQ ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Roger M. Yale, Attorney-at-Law, presented this Agreed Order to the Commission.

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

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 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 9520 Harmonson Road in Justin, Denton County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, 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 January 30, 2012, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample for the months of April, May, June, July, and August 2011;
 - b. Failed to provide the results of annual nitrate monitoring to the TCEQ's Executive Director. Specifically, Respondent failed to provide nitrate monitoring results for the 2011 monitoring period;

- c. Failed to provide the results of triennial metal and mineral monitoring to the TCEQ's Executive Director. Specifically, Respondent failed to provide mineral and metal results for the January 2009 to December 2011 monitoring period; and
 - d. Failed to collect routine distribution water samples for coliform analysis for the months of September, October, November, and December 2011 and failed to provide public notice of the failure to sample in September 2011.
3. Respondent received notice of the violations on or about February 15, 2012.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, 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 Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notice of the failure to sample for the months of April, May, June, July, and August 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide the results of annual nitrate monitoring to the TCEQ's Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide the results of triennial metal and mineral monitoring to the TCEQ's Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e) .
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect routine distribution water samples for coliform analysis for the months of September, October, November, and December 2011 and failed to provide public notice of the failure to sample in September 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
6. 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.
7. An administrative penalty in the amount of two thousand eight hundred ten dollars (\$2,810.00) 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. Respondent paid one hundred ten dollars (\$110.00) of the administrative penalty. The remaining amount of two thousand seven hundred dollars (\$2,700.00) of the administrative penalty shall be payable in twenty-seven (27) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the

payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7, above, 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 Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Paula Reagan d/b/a Lucky Roadhouse BBQ, Docket No. 2012-0849-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
2. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, Respondent shall 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 compliant monitoring and reporting.
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.g., below, to demonstrate compliance with Ordering Provision No. 2.b.
 - d. Within 60 days after the effective date of this Agreed Order, Respondent shall:
 - i. Ensure that all delinquent drinking water chemical analysis results are reported to the TCEQ's Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE § 290.106; and
 - ii. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of the Executive Director's request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants).

- e. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.g., below, to demonstrate compliance with Ordering Provision No. 2.d.
- f. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.g., below, to demonstrate compliance with Ordering Provision No. 2.a.
- g. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 certifications and supporting 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:

Elston Johnson, Public Drinking Water Program, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- 3. All relief not expressly granted in this Agreed Order is denied.
- 4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director.
- 6. The determination of what constitutes good cause rests solely with the Executive Director.
- 7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

8. 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.
9. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

12/17/12
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Paula Reagan d/b/a Lucky Roadhouse BBQ, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this Agreed 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.


Signature - Paula Reagan

9/27/12
Date