

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 37608
Blanca Cruz d/b/a Las Mananitas Mexican Restaurant
RN104709944
Docket No. 2011-2322-PWS-E

Order Type:

Default Order

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

9702 State Highway 16 South, Pipe Creek, Bandera County

Type of Operation:

restaurant with a public water system

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$3,058.55 (2009-0695-PWS-E; Referred for collection)
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: November 23, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$25,904

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$25,904

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)

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 37608
Blanca Cruz d/b/a Las Mananitas Mexican Restaurant
RN104709944
Docket No. 2011-2322-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 28, 2011
Date(s) of NOV(s): See Compliance History - 12 related NOVs
Date(s) of NOE(s): December 2, 2011

Violation Information

1. Failed to collect and submit routine distribution water samples for coliform analysis for November 2010, January 2011, and April 2011, and failed to provide public notice of the failure to sample for November 2010, January 2011, and April 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provisions Nos. 2.b. and 2.d.].
2. Failed to collect and submit at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring for August 2010 and June 2011 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B); and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provisions Nos. 2.b. and 2.d.].
3. Failed to collect and submit routine distribution water samples for coliform analysis for the month of September 2011 [TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i); and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provision No. 2.d.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer operates the Facility as of September 27, 2012.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: September 26, 2012; December 3, 2012; January 7, 2013
Date Green Card(s) Signed: Unclaimed; Unclaimed; Unclaimed
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
James Murphy, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Andrea Linson, Enforcement Division, (512) 239- 1482
TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 490-3096
Respondent: Blanca Cruz, P.O. Box 63188, Pipe Creek, Texas 78063
Blanca Cruz, P.O. Box 63402, Pipe Creek, Texas 78603
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Dec-2011			
	PCW	5-Jan-2012	Screening	19-Dec-2011	EPA Due 31-Mar-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Blanca Cruz dba Las Mananitas Mexican Restaurant				
Reg. Ent. Ref. No.	RN104709944				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	37608	No. of Violations	2
Docket No.	2011-2322-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson
		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** **\$10,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	87.0%	Enhancement	Subtotals 2, 3, & 7	\$9,135
Notes	Enhancement for 12 NOVs with the same violations, one dissimilar NOV and one final agreed order without a denial of liability.			
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	\$366	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$425			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$19,635**

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.8%** **Adjustment** **\$354**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement for the recovery of avoided costs associated with Violation Nos. 1 and 2.		
	Final Penalty Amount	\$19,989	

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$19,989**

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.		
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PAYABLE PENALTY **\$19,989**

Screening Date	19-Dec-2011	Docket No.	2011-2322-PWS-E	PCW
Respondent	Blanca Cruz dba Las Mananitas Mexican Restaurant			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37608			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN104709944			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson			

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>)	12	60%
	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	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) 87%

>> **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 12 NOVs with the same violations, one dissimilar NOV and one final agreed order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 87%

Screening Date	19-Dec-2011	Docket No.	2011-2322-PWS-E	PCW
Respondent	Blanca Cruz dba Las Mananitas Mexican Restaurant			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37608			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN104709944			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), Tex. Health & Safety Code § 341.033(d), and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provision Nos. 2.b. and 2.d.

Violation Description Failed to collect and submit routine distribution water samples for coliform analysis for the following months: November 2010, January 2011 and April 2011; and failed to provide public notice of the failure to sample for the following months: November 2010, January 2011 and April 2011.

Base Penalty

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

OR	Harm			Percent <input type="text" value="25%"/>	
	Release	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"/>	

>> **Programmatic Matrix**

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

Matrix Notes Failure to perform routine coliform monitoring and provide public notification could result in persons served by the Facility being exposed to significant amounts of undetected contaminants, which 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

Twenty-One monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-0695-PWS-E, April 11, 2010, to the screening date, December 19, 2011.

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 Respondent does 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 Blanca Cruz dba Las Mananitas Mexican Restaurant
Case ID No. 37608
Reg. Ent. Reference No. RN104709944
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	11-Apr-2010	31-Jul-2012	2.31	\$12	n/a	\$12

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, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-0695-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]	\$100	1-Nov-2010	31-Aug-2011	1.75	\$9	\$100	\$109
Other (as needed)	\$15	1-Dec-2010	31-Jul-2011	1.58	\$1	\$15	\$16

Notes for AVOIDED costs

The avoided costs include the estimated amount (\$25 x 4 samples and \$5 x 3 notifications) to conduct routine coliform sampling and provide public notification of the failure to sample, calculated for the months sampling was not conducted and the period that a public notice was required.

Approx. Cost of Compliance

\$215

TOTAL

\$137

Screening Date	19-Dec-2011	Docket No.	2011-2322-PWS-E	PCW
Respondent	Blanca Cruz dba Las Mananitas Mexican Restaurant			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	37608			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN104709944			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(F) and and 290.122(c)(2)(B), and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provision Nos. 2.b. and 2.d.			
Violation Description	Failed to collect and submit at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring for the following months: August 2010 and June 2011. Specifically, the Respondent only submitted one coliform sample for the months of August 2010 and June 2011.			
		Base Penalty	\$1,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual			Percent 25%
Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes: Failure to properly sample and provide public notification may expose persons served by the Facility to a significant amount of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events: 21 617 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,250

Twenty-one monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-0695-PWS-E, April 11, 2010, to the screening date, December 19, 2011.

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 \$5,250

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount: \$229 Violation Final Penalty Total: \$9,995

This violation Final Assessed Penalty (adjusted for limits) \$9,995

Economic Benefit Worksheet

Respondent Blanca Cruz dba Las Mananitas Mexican Restaurant
Case ID No. 37608
Reg. Ent. Reference No. RN104709944
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)				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 associated with this violation is captured in economic benefit of Violation No. 1 of this 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]	\$200	1-Aug-2010	30-Jun-2011	1.83	\$18	\$200	\$218
Other (as needed)	\$10	1-Sep-2010	31-Aug-2011	1.92	\$1	\$10	\$11

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 per sample x 8 samples + \$5 per public notice x 2 notices) to conduct routine coliform sampling and provide public notification of the failure to sample, calculated for the months in which increased monitoring was not properly conducted and for the period that public notifications should have been provided.

Approx. Cost of Compliance

\$210

TOTAL

\$229



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	12-Dec-2011			
	PCW	5-Jan-2012	Screening	19-Dec-2011	EPA Due 31-Mar-2011

RESPONDENT/FACILITY INFORMATION

Respondent	Blanca Cruz dba Las Mananitas Mexican Restaurant	
Reg. Ent. Ref. No.	RN104709944	
Facility/Site Region	13-San Antonio	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	37608	No. of Violations	1
Docket No.	2011-2322-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson
		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** **\$3,150**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	87.0%	Enhancement	Subtotals 2, 3, & 7	\$2,740
Notes	Enhancement for 12 NOVs with the same violations, one dissimilar NOV and one final agreed order without a denial of liability.			
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	\$25	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$25			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,890**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.4%** **Adjustment** **\$25**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement recommended for the recovery of avoided costs associated with Violation No. 1.		
	Final Penalty Amount	\$5,915	

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,915**

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.		
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PAYABLE PENALTY **\$5,915**

Screening Date 19-Dec-2011 **Docket No.** 2011-2322-PWS-E
Respondent Blanca Cruz dba Las Mananitas Mexican Restaura
Case ID No. 37608
Reg. Ent. Reference No. RN104709944
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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>)	12	60%
	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	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) 87%

>> 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 12 NOVs with the same violations, one dissimilar NOV and one final agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 87%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 87%

Screening Date	19-Dec-2011	Docket No.	2011-2322-PWS-E	PCW
Respondent	Blanca Cruz dba Las Mananitas Mexican Restaurant			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	37608			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN104709944			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson			

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code § 290.109(c)(2)(A)(i), Tex. Health & Safety Code § 341.033(d), and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provision No. 2.d.

Violation Description
 Failed to collect and submit routine distribution water samples for coliform analysis for the month of September 2011.

Base Penalty

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

OR	Harm			Percent <input type="text" value="15.0%"/>	
	Release	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"/>	

>> **Programmatic Matrix**

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

Matrix Notes
 Failure to perform routine coliform monitoring could result in persons served by the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

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

Violation Base Penalty

Twenty-one monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-0695-PWS-E, April 11, 2010, to the screening date, December 19, 2011.

Good Faith Efforts to Comply

Reduction

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

Notes
 The Respondent does 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 Blanca Cruz dba Las Mananitas Mexican Restaurant
Case ID No. 37608
Reg. Ent. Reference No. RN104709944
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)				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				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]	\$25	1-Sep-2011	30-Sep-2011	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount (\$25 x 1 sample) to conduct routine coliform sampling, calculated for the month sampling was not conducted.

Approx. Cost of Compliance \$25

TOTAL \$25

Compliance History

Customer/Respondent/Owner-Operator: CN603461039 Blanca Cruz Classification: Rating:
Regulated Entity: RN104709944 LAS MANANITAS MEXICAN RESTAURANT Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0100084
Location: 9702 STATE HIGHWAY 16 SOUTH, PIPE CREEK, BANDERA COUNTY, TEXAS
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: December 19, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 19, 2006 to December 19, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Linson Phone: (512) 239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator?, since 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

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: 04/11/2010

ADMINORDER 2009-0695-PWS-E

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

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	10/30/2007	(597381)	10	04/17/2009	(740287)
2	05/07/2008	(654246)	11	11/30/2011	(969989)
3	05/07/2008	(654396)	12	12/01/2011	(970226)
4	03/25/2009	(739747)	13	12/01/2011	(970240)
5	03/26/2009	(740202)	14	12/01/2011	(970243)
6	03/26/2009	(740204)	15	12/01/2011	(970245)
7	03/26/2009	(740224)	16	12/01/2011	(970246)
8	03/26/2009	(740228)	17	12/09/2011	(970290)
9	03/26/2009	(740231)			

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

Date: 10/24/2007 (597381) CN603461039

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)

Description: Failure to maintain a record of water works operations and maintenance activities. Specifically, failure to maintain records of: 1) Weekly disinfectant residual results from the distribution system; 2) Results of monthly microbiological analyses from the distribution system; 3) Results of annual tank inspections; 4) Weekly water production and chemical usage data. The above records are required to be retained for up to 5 years.

Self Report? NO Classification: Minor

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

Description: Failure to have a flow measuring device for each well to measure production yields and provide for the accumulation of water production data.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)

Description: Failure to have a free chlorine test kit that utilizes the DPD colorimetric method.

Self Report? NO Classification: Minor

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

30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to protect the well and ground storage tank in a lockable building or intruder resistant fence with lockable gates. The intruder resistant fence must be six feet or greater in height, constructed of wood, concrete, masonry, or metal, or with three strands of barbed wire extending outward from the top of the fence at a 45 degree angle. In lieu of the barbed wire, the fence must be eight feet in height. Additionally the roof opening of the ground storage tank must have a lock on it.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)

Description: Failure to keep a septic tank drainfield a minimum of 150 ft. away from a public water supply well.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to provide a recorded sanitary control easement on all adjacent property owner's land within 150 ft. of the well to prevent pollution hazards from developing.

Self Report? NO Classification: Moderate

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

Description: Failure to submit well completion data and as-built plans to the TCEQ Central Office and obtain final approval of the well before placing it in to service as a public water supply well.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(d)(2)(B)(v)

Description: Failure to meet the Commission's minimum water system capacity requirements, specifically failure to provide a minimum of 220 gallons of pressure tank capacity.

Date: 08/08/2008 (739747) CN603461039

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/10/2008 (740202) CN603461039

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

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)(B)

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 (740204) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 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)(B)
 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 (740224) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 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)(B)
 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 (740228) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 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)(B)
 Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/09/2009 (740231) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 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 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/29/2010 (969989) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 08/2010 - Failure to collect all of the 5 distribution samples following a coliform found month.

Date: 01/04/2011 (970226) CN603461039
 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).

Date: 03/10/2011 (970240) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 01/2011 - Failure to collect any routine monitoring sample(s).

Date: 06/03/2011 (970243) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Date: 08/26/2011 (970245) CN603461039
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: TCR Increase Monitoring Violation 06/2011 - Failure to collect all of the 5 distribution samples following a coliform found month.

Date: 11/17/2011 (970246) CN603461039
 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).

- 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
BLANCA CRUZ D/B/A
LAS MANANITAS
MEXICAN RESTAURANT;
RN104709944**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-2322-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. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Blanca Cruz d/b/a Las Mananitas Mexican Restaurant ("Respondent").

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

FINDINGS OF FACT

1. Respondent operated a restaurant with a public water system located at 9702 State Highway 16 South in Pipe Creek, Bandera County, Texas (the "Facility"). The Facility provides water for human consumption, has 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 November 28, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect and submit routine distribution water samples for coliform analysis for November 2010, January 2011, and April 2011, and failed to provide public notice of the failure to sample for November 2010, January 2011, and April 2011;
 - b. Failed to collect and submit at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring for August 2010 and June 2011. Specifically, Respondent only submitted one coliform sample for the months of August 2010 and June 2011; and
 - c. Failed to collect and submit routine distribution water samples for coliform analysis for the month of September 2011.
3. Respondent received notice of the violations on or about December 7, 2011.
4. The Executive Director recognizes that Respondent no longer operates the Facility as of September 27, 2012.

5. 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 Blanca Cruz d/b/a Las Mananitas Mexican Restaurant" (the "EDPRP") in the TCEQ Chief Clerk's office on September 26, 2012.
6. The EDPRP was mailed to Respondent's last know address on September 26, 2012, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
7. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on December 3, 2012.
8. The EDPRP was mailed to Respondent at a new address, provided to the Executive Director by Respondent, on December 3, 2012, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed".
9. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on January 7, 2013.
10. By letter dated January 7, 2013, 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.
11. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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 and submit routine distribution water samples for coliform analysis for November 2010, January 2011, and April 2011, and failed to provide public notice of the failure to sample for November 2010, January 2011, and April 2011, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provisions Nos. 2.b. and 2.d.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect and submit at least five routine distribution coliform samples the month following a coliform-positive sample result and failed to provide public notice of the failure to conduct increased monitoring for August 2010 and June 2011, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(B) and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provisions Nos. 2.b. and 2.d.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect and submit routine distribution water samples for coliform analysis for the month of September 2011, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i), TEX. HEALTH & SAFETY

CODE § 341.033(d), and TCEQ Agreed Order Docket No. 2009-0695-PWS-E, Ordering Provision No. 2.d.

5. As evidenced by Findings of Fact Nos. 5 through 10, 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).
6. As evidenced by Finding of Fact No. 11, 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 by 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.
7. Pursuant to by 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.
8. An administrative penalty in the amount of twenty-five thousand nine hundred four dollars (\$25,904.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in by TEX. HEALTH & SAFETY CODE § 341.049.
9. 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 twenty-five thousand nine hundred four dollars (\$25,904.00) 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: Blanca Cruz d/b/a Las Mananitas Mexican Restaurant; Docket No. 2011-2322-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.

6. 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.
7. 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.
8. 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 KARI L. GILBRETH

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Kari L. Gilbreth. 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.

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 Blanca Cruz d/b/a Las Mananitas Mexican Restaurant" (the "EDPRP") in the TCEQ Chief Clerk's office on September 26, 2012.

The EDPRP was mailed to Respondent's last know address on September 26, 2012, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on December 3, 2012. The EDPRP was mailed to Respondent at a new address, provided to the Executive Director by Respondent, on December 3, 2012, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed".

The EDPRP was re-filed and mailed to Respondent's last known address on January 13, 2013, via certified mail, return receipt requested, and via first class mail, postage prepaid. 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).

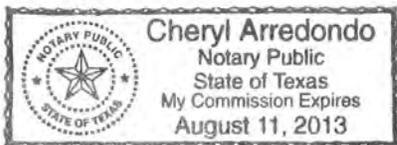
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

Kari L. Gilbreth

Kari L. Gilbreth, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, 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 4th day of April, A.D. 2013.



Cheryl Arredondo
Notary Signature