

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45185  
Ampelio Vargas d/b/a Los Dos Patrones Taqueria and  
Abelina Vargas d/b/a Los Dos Patrones Taqueria  
RN101247302  
Docket No. 2012-2048-PWS-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (11 NOVs) over the prior five year period for the same violations.

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

2272 Highway 36 North, Sealy, Austin County

**Type of Operation:**

restaurant with a 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:** July 5, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$3,004

**Total Paid to General Revenue:** \$104

**Total Due to General Revenue:** \$2,900

Payment Plan: 29 payments of \$100 each

**Compliance History Classifications:**

Person/CN – N/A (Both Respondents)  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

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

**Investigation Information**

**Date(s) of Investigation:** September 17, 2012

**Date(s) of NOV(s):** See Compliance History - 11 related NOVs

**Date(s) of NOE(s):** October 1, 2012

**Ampelio Vargas d/b/a Los Dos Patrones Taqueria and  
Abelina Vargas d/b/a Los Dos Patrones Taqueria  
RN101247302**

**Docket No. 2012-2048-PWS-E**

**Violation Information**

1. Failed to collect routine distribution water samples for coliform analysis for the month of July 2011, and failed to provide public notice of the failure to sample [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 public notification regarding the failure to conduct routine coliform monitoring during the month of October 2010 [30 TEX. ADMIN. CODE § 290.122(c)(2)(B)].
3. Failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2010 reporting period [30 TEX. ADMIN. CODE § 290.106(e)].
4. Failed to collect routine distribution water samples for coliform analysis for the months of September 2011, November 2011, December 2011, January 2012, March 2012, and April 2012 and failed to provide public notice of the failures to sample [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].
5. Failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2011 reporting period [30 TEX. ADMIN. CODE § 290.106(e)].
6. Failed to provide the results of triennial minerals monitoring to the Executive Director for the monitoring period from January 1, 2009 through December 31, 2011 reporting period [30 TEX. ADMIN. CODE § 290.106(e)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

Respondents ceased operating the Facility as of September 21, 2012.

**Technical Requirements:**

N/A

**Litigation Information**

**Date Petition(s) Filed:** January 31, 2013

**Date Answer(s) Filed:** May 14, 2013

**Settlement Date:** May 28, 2013

**Contact Information**

**TCEQ Attorneys:** Steven M. Fishburn, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Blas Coy, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Epifanio Villareal, Enforcement Division, (361) 825-3425

**TCEQ Regional Contact:** Steve Smith, Houston Office Regional Office, (713) 767-3581

**Respondent Contact:** Ampelio and Abelina Vargas, 974 Jurica Road, Sealy, Texas 77474

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	8-Oct-2012	<b>Screening</b>	10-Oct-2012	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	10-Oct-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria		
<b>Reg. Ent. Ref. No.</b>	RN101247302		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45185	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-2048-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$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

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  \*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

**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

**PAYABLE PENALTY**

**Screening Date** 10-Oct-2012

**Docket No.** 2012-2048-PWS-E

**Respondent Case ID No.** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria 45185

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101247302

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 55%

>> **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 11 NOVs with same/similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

<b>Screening Date</b>	10-Oct-2012	<b>Docket No.</b>	2012-2048-PWS-E	<b>PCW</b>
<b>Respondent</b>	dba Los Dos Patrones Taqueria		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	45185		PCW Revision October 30, 2008	
<b>Reg. Ent. Reference No.</b>	RN101247302			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Epifanio Villarreal			

**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 for the month of July 2011 and failed to provide public notice of the failure to sample for the month of July 2011.

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="25%"/>	
	<b>Release</b>	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	<b>Percent</b> <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes** Failure to collect coliform monitoring samples and provide public notice could expose persons served by the Facility to 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**

One monthly 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 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** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria  
**Case ID No.** 45185  
**Reg. Ent. Reference No.** RN101247302  
**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-Jul-2011	31-Jul-2011	1.00	\$1	\$25	\$26
Other (as needed)	\$5	1-Aug-2011	1-Nov-2011	1.17	\$0	\$5	\$5
Other (as needed)	\$100	17-Sep-2012	21-Sep-2012	0.00	\$0	\$100	\$100

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a routine sample (\$25 per sample) and provide public notice for the failure to collect the sample (\$5 per notice), calculated for the month in which no sample was collected and during the period that a public notice was required. The other avoided cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date and the final date is the date of inactivation.

Approx. Cost of Compliance \$130

**TOTAL** \$132

<b>Screening Date</b>	10-Oct-2012	<b>Docket No.</b>	2012-2048-PWS-E	<b>PCW</b>
<b>Respondent</b>	Los Dos Patrones Taqueria			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	45185			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101247302			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Epifanio Villarreal			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.122(c)(2)(B)

**Violation Description**

Failed to provide public notification regarding the failure to conduct routine coliform monitoring during the month of October 2010.

**Base Penalty**

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

OR

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

**Percent**

>> **Programmatic Matrix**

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

**Percent**

Matrix Notes

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**

One single 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** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria  
**Case ID No.** 45185  
**Reg. Ent. Reference No.** RN101247302  
**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

**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]	\$5	1-Nov-2010	1-Feb-2011	1.17	\$0	\$5	\$5
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification (\$5) of the failure to sample, calculated for the period when public notification was not provided. The other avoided costs are captured in Violation No. 1 of the Revision 2 PCW.

Approx. Cost of Compliance \$5

**TOTAL** \$5

<b>Screening Date</b>	10-Oct-2012	<b>Docket No.</b>	2012-2048-PWS-E	<b>PCW</b>
<b>Respondent</b>	Los Dos Patrones Taqueria			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	45185			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101247302			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Epifanio Villarreal			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> Environmental, Property and Human Health Matrix

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="0%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**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 checked="" type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

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 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** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria  
**Case ID No.** 45185  
**Reg. Ent. Reference No.** RN101247302  
**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

### 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	31-Dec-2010	21-Sep-2012	2.64	\$3	\$25	\$28
Other (as needed)	\$100	17-Sep-2012	21-Sep-2012	0.00	\$0	\$100	\$100

Notes for AVOIDED costs

The avoided costs include the estimated amount to pay any outstanding lab fees so that the lab will release the nitrate/nitrite sample results, and the Respondents can provide them to the Executive Director. The date required is the last date of the monitoring period in which nitrate sample results were not provided and the final date is the date of inactivation. The other avoided cost includes the estimated amount to develop a protocol to ensure all necessary improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure future drinking water chemical sample results are released by the Facility's lab and reported to the Executive Director. The date required is the record review date and the final date is the date of inactivation.

Approx. Cost of Compliance

\$125

**TOTAL**

\$128



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	8-Oct-2012	<b>Screening</b>	10-Oct-2012	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	10-Oct-2012				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria		
<b>Reg. Ent. Ref. No.</b>	RN101247302		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	45185	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-2048-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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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.

<b>Compliance History</b>	55.0%	Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$550	
Notes	Enhancement for 11 NOVs with same/similar violations.				
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
Notes	The Respondents do not meet the culpability criteria.				
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	\$0	
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0	
Total EB Amounts	\$195	*Capped at the Total EB \$ Amount			
Approx. Cost of Compliance	\$180				

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,550
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	31.8%	<b>Adjustment</b>	\$493
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture avoided costs of compliance associated with Violation Nos. 1, 2, and 3.		
	<b>Final Penalty Amount</b>	\$2,043	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$2,043
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$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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<b>PAYABLE PENALTY</b>	\$2,043
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**Screening Date** 10-Oct-2012 **Docket No.** 2012-2048-PWS-E

PCW

**Respondent** Ampelio Vargas dba Los Dos Patrones Taqueria  
and Abelina Vargas dba Los Dos Patrones

Policy Revision 3 (September 2011)

**Case ID No.** 45185

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101247302

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Epifanio Villarreal

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 55%

#### >> 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 11 NOVs with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 55%

<b>Screening Date</b>	10-Oct-2012	<b>Docket No.</b>	2012-2048-PWS-E	<b>PCW</b>
<b>Respondent</b>	Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45185			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN101247302			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Epifanio Villarreal			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> Environmental, Property and Human Health Matrix

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="15.0%"/>	
	<b>Release</b>	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	<b>Percent</b> <input type="text" value="0.0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**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**

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)
<b>Notes</b>	<input type="text" value="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** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria  
**Case ID No.** 45185  
**Reg. Ent. Reference No.** RN101247302  
**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
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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]	\$150	1-Sep-2011	30-Apr-2012	1.58	\$12	\$150	\$162
Other (as needed)	\$125	1-Oct-2011	1-Aug-2012	1.75	\$11	\$125	\$136
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of six routine samples (\$25 per sample) and provide public notice for the failure to collect the samples (\$5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required. The other avoided costs are captured in Violation No. 2 of the Revision 2 PCW.

Approx. Cost of Compliance \$275

**TOTAL** \$298

**Screening Date** 10-Oct-2012 **Docket No.** 2012-2048-PWS-E **PCW**  
**Respondent** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina  
**Case ID No.** 45185 *Policy Revision 3 (September 2011)*  
**Reg. Ent. Reference No.** RN101247302 *PCW Revision August 3, 2011*  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**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"/>	<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**

**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 checked="" type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

**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**

**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** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria  
**Case ID No.** 45185  
**Reg. Ent. Reference No.** RN101247302  
**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

### 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	31-Dec-2011	21-Sep-2012	1.64	\$2	\$25	\$27
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to pay any outstanding lab fees so that the lab will release the nitrate/nitrite sample results and the Respondents can provide them to the Executive Director. The date required is the last date of the monitoring period in which nitrate/nitrite sample results were not provided and the final date is the date of inactivation. The other avoided costs is captured in Violation No. 3 of Revision 2 PCW.

Approx. Cost of Compliance	\$25	<b>TOTAL</b>	\$27
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<b>Screening Date</b> 10-Oct-2012	<b>Docket No.</b> 2012-2048-PWS-E	<b>PCW</b>
<b>Respondent</b> Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina		
<b>Case ID No.</b> 45185		<i>Policy Revision 3 (September 2011)</i>
<b>Reg. Ent. Reference No.</b> RN101247302		<i>PCW Revision August 3, 2011</i>
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Epifanio Villarreal		

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

**>> Programmatic Matrix**

		Harm			
		Major	Moderate	Minor	
<b>Matrix Notes</b>	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="5.0%"/>
		x	<input type="text"/>	<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

<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 type="text"/>
	single event	x

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	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** Ampelio Vargas dba Los Dos Patrones Taqueria and Abelina Vargas dba Los Dos Patrones Taqueria  
**Case ID No.** 45185  
**Reg. Ent. Reference No.** RN101247302  
**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

### 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]	\$155	31-Dec-2011	21-Sep-2012	1.64	\$13	\$155	\$168
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to pay any outstanding lab fees so that the lab will release the mineral sample results and the Respondents can provide them to the Executive Director. The date required is the last date of the monitoring period in which mineral sample results were not provided and the final date is the date of inactivation. The other avoided costs are captured in Violation No. 3 of Revision 2 PCW.

Approx. Cost of Compliance \$155

**TOTAL** \$168

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN603644089, RN101247302, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN603644089, Ampelio Vargas **Classification:** NOT APPLICABLE **Rating:** -----

**Regulated Entity:** RN101247302, LOS DOS PATRONES TAQUERIA **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 2272 HIGHWAY 36 N, SEALY, AUSTIN COUNTY, TX

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY**  
REGISTRATION 0080050

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** October 10, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 10, 2007 to October 10, 2012

## **TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Epi Villarreal

**Phone:** (361) 825-3425

## **Site and Owner/Operator History:**

- 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? YES
- 3) If YES for #2, who is the current owner/operator? Abelina Vargas
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Ampelio Vargas  
MOEHL, BRAD, OWNER
- 5) If YES, when did the change(s) in owner or operator occur? 7/23/2003

## **Components (Multimedia) for the Site Are Listed in Sections A - J**

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1 September 12, 2012 (1021880)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 11/17/2011 (1035083) CN604142760**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).
- 2 Date: 11/28/2011 (1035083) CN604142760**

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.
- 3 Date: 02/16/2012 (1035083) CN604142760**

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: SEP/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 09/2011.
- 4 Date: 02/29/2012 (1035083) CN604142760**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample(s).

- 5 Date: 03/15/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 12/2011 - Failure to collect any routine monitoring sample(s).
- 6 Date: 03/27/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 01/2012 - Failure to collect any routine monitoring sample(s).
- 7 Date: 04/24/2012 (1035083) CN604142760**  
 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: NOV/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 11/2011.
- 8 Date: 05/07/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 03/2012 - Failure to collect any routine monitoring sample(s).
- 9 Date: 06/14/2012 (1035083) CN604142760**  
 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: DEC/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 12/2011.
- 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: JAN/2012 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 01/2012.
- 10 Date: 06/22/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 04/2012 - Failure to collect any routine monitoring sample(s).
- 11 Date: 07/24/2012 (1035083) CN604142760**  
 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: MAR/2012 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 03/2012.

**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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# Compliance History Report

**PUBLISHED** Compliance History Report for CN604142760, RN101247302, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN604142760, Abelina Vargas

**Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101247302, LOS DOS PATRONES TAQUERIA

**Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 2272 HIGHWAY 36 N, SEALY, AUSTIN COUNTY, TX

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY**

REGISTRATION 0080050

**Compliance History Period:** September 01, 2007 to August 31, 2012

**Rating Year:** 2012

**Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** October 10, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 10, 2007 to October 10, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Epi Villarreal

**Phone:** (361) 825-3425

## Site and Owner/Operator History:

- 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? YES
- 3) If YES for #2, who is the current owner/operator? Abelina Vargas
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Ampelio Vargas  
MOEHL, BRAD, OWNER
- 5) If YES, when did the change(s) in owner or operator occur? 7/23/2003

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1 September 12, 2012 (1021880)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 11/17/2011 (1035083) CN604142760**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).
- 2 Date: 11/28/2011 (1035083) CN604142760**

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.
- 3 Date: 02/16/2012 (1035083) CN604142760**

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: SEP/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 09/2011.
- 4 Date: 02/29/2012 (1035083) CN604142760**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample(s).

- 5 Date: 03/15/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 12/2011 - Failure to collect any routine monitoring sample(s).
- 6 Date: 03/27/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 01/2012 - Failure to collect any routine monitoring sample(s).
- 7 Date: 04/24/2012 (1035083) CN604142760**  
 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: NOV/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 11/2011.
- 8 Date: 05/07/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 03/2012 - Failure to collect any routine monitoring sample(s).
- 9 Date: 06/14/2012 (1035083) CN604142760**  
 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: DEC/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 12/2011.
- 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: JAN/2012 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 01/2012.
- 10 Date: 06/22/2012 (1035083) CN604142760**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine Monitoring Violation 04/2012 - Failure to collect any routine monitoring sample(s).
- 11 Date: 07/24/2012 (1035083) CN604142760**  
 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: MAR/2012 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 03/2012.

**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  
AMPELIO VARGAS DBA LOS DOS  
PATRONES TAQUERIA AND  
ABELINA VARGAS DBA LOS DOS  
PATRONES TAQUERIA;  
RN101247302**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-2048-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 Ampelio Vargas d/b/a Los Dos Patrones Taqueria and Abelina Vargas d/b/a Los Dos Patrones Taqueria ("Respondents") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents presented this Agreed Order to the Commission.

Respondents understand that they have 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, Respondents agree 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 Respondents.

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

### **FINDINGS OF FACT**

1. Respondents owned and operated a public water system located at 2272 Highway 36 North in Sealy, Austin County, Texas (the "Facility"). The Facility provided water for human consumption, had approximately one (1) service connection, and served 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 September 17, 2012, a TCEQ Central Office investigator documented that Respondents:
  - a. Failed to collect routine distribution water samples for coliform analysis for the month of July 2011, and failed to provide public notice of the failure to sample;
  - b. Failed to provide public notification regarding the failure to conduct routine coliform monitoring during the month of October 2010;
  - c. Failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2010 reporting period;

- d. Failed to collect routine distribution water samples for coliform analysis for the months of September 2011, November 2011, December 2011, January 2012, March 2012, and April 2012 and failed to provide public notice of the failures to sample;
  - e. Failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2011 reporting period;
  - f. Failed to provide the results of triennial minerals monitoring to the Executive Director for the monitoring period from January 1, 2009 through December 31, 2011.
3. Respondents received notice of the violations on or about October 6, 2012.
  4. The Executive Director recognizes that Respondents ceased operating the Facility as of September 21, 2012.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondents are 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., Respondents failed to collect routine distribution water samples for coliform analysis for the month of July 2011, and failed to provide public notice of the failure to sample, 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., Respondents failed to provide public notification regarding the failure to conduct routine coliform monitoring during the month of October 2010, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(B).
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2010 reporting period, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
5. As evidenced by Finding of Fact No. 2.d., Respondents failed to collect routine distribution water samples for coliform analysis for the months of September 2011, November 2011, December 2011, January 2012, March 2012, and April 2012, and failed to provide public notice of the failures to sample, 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. As evidenced by Finding of Fact No. 2.e., Respondents failed to provide the results of annual nitrate/nitrite monitoring to the Executive Director for the 2011 reporting period, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
7. As evidenced by Finding of Fact No. 2.f., Respondents failed to provide the results of triennial minerals monitoring to the Executive Director for the monitoring period from January 1, 2009 through December 31, 2011, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
8. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondents 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.

9. An administrative penalty in the amount of three thousand four dollars (\$3,004.00) 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. Respondents paid one hundred four dollars (\$104.00) of the administrative penalty. The remaining amount of two thousand nine hundred dollars (\$2,900.00) of the administrative penalty shall be payable in twenty-nine (29) 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 Respondents fail 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, Respondents' 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. Respondents are assessed an administrative penalty as set forth in Conclusion of Law No.9, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' 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: Ampelio Vargas d/b/a Los Dos Patrones Taqueria and Abelina Vargas d/b/a Los Dos Patrones Taqueria, Docket No. 2012-2048-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. All relief not expressly granted in this Agreed Order is denied.
3. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
4. This Agreed Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
5. 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 Respondents have not complied with one or more of the terms or conditions in this Agreed Order.

6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order 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.
8. 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 Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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Ampelio Vargas d/b/a Los Dos Patrones Taqueria and Abelina Vargas d/b/a Los Dos Patrones Taqueria  
Docket No. 2012-2048-PWS-E  
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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

*[Signature]*  
For the Executive Director

*August 23, 2013*  
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 Ampelio Vargas d/b/a Los Dos Patrones Taqueria and/or Abelina Vargas d/b/a Los Dos Patrones Taqueria, as applicable, 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.

*Ampelio Vargas*  
Signature - Ampelio Vargas

*8/17/13*  
Date

*Abelina Vargas*  
Signature - Abelina Vargas

*8/17/13*  
Date