

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47528  
Steve Hebert d/b/a Star Café  
RN101278224  
Docket No. 2013-1627-PWS-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

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

**Media:**

PWS

**Small Business:**

N/A

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

21522 Farm-to-Market Road 2100, Crosby, Harris County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$126.75 (Account No. 91013024)
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** April 25, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,672

**Total Paid to General Revenue:** \$1,672

**Total Due to General Revenue:** \$0

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Not Applicable  
Site/RN – Not Applicable

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

Steve Hebert d/b/a Star Café

RN101278224

Docket No. 2013-1627-PWS-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** July 22, 2013; August 27, 2013  
**Date(s) of NOV(s):** See Compliance History - 13 related NOVs  
**Date(s) of NOE(s):** August 14, 2013

**Violation Information**

1. Failed to collect routine distribution samples for coliform analysis, and failed to provide public notification of the failure to collect routine samples [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A)].
2. Failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91013024 for Fiscal Year 2013 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

Respondent inactivated the Facility on June 6, 2013.

**Technical Requirements:**

1. Within 30 days, submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91013024.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** February 14, 2014  
**Date Answer(s) Filed:** N/A  
**Settlement Date:** April 1, 2014

**Contact Information**

**TCEQ Attorneys:** Meaghan M. Bailey, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Sam Keller, Enforcement Division, (512) 239-2678

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

**Respondent Contact:** Steve Hebert, 30733 Huffman Cleveland Road, Huffman, Texas 77336-3513

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	26-Aug-2013	<b>Screening</b>	29-Aug-2013	<b>EPA Due</b>	31-Dec-2013
	<b>PCW</b>	11-Dec-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Steve Hebert dba Star Café		
<b>Reg. Ent. Ref. No.</b>	RN101278224		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	47528	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-1627-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>	Sam Keller
		<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>	\$900
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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>	65.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$585
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<b>Notes</b>	Enhancement for 13 NOVs with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$187	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$175	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,485
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	12.6%	<b>Adjustment</b>	\$187
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided costs of compliance for Violation No. 1.
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<b>Final Penalty Amount</b>	\$1,672
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,672
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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.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$1,672
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**Screening Date** 29-Aug-2013

**Docket No.** 2013-1627-PWS-E

**PCW**

**Respondent** Steve Hebert dba Star Café

Policy Revision 3 (September 2011)

**Case ID No.** 47528

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101278224

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Sam Keller

### 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> )	13	65%
	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)** 65%

**>> 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 13 NOVs with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 65%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 65%

**Screening Date** 29-Aug-2013 **Docket No.** 2013-1627-PWS-E **PCW**  
**Respondent** Steve Hebert dba Star Café *Policy Revision 3 (September 2011)*  
**Case ID No.** 47528 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN101278224  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Sam Keller

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)

**Violation Description** Failed to collect routine distribution water samples for coliform analysis for the months of December 2012 through May 2013 and failed to post public notification for the failure to conduct routine coliform monitoring for the months of December 2012 through April 2013.

**Base Penalty** \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential	x				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Failure to perform routine coliform monitoring and post public notification could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

**Adjustment** \$850

\$150

**Violation Events**

Number of Violation Events 6 242 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$900

Six monthly events are recommended.

**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** \$900

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$187

**Violation Final Penalty Total** \$1,672

**This violation Final Assessed Penalty (adjusted for limits)** \$1,672

# Economic Benefit Worksheet

**Respondent** Steve Hebert dba Star Café  
**Case ID No.** 47528  
**Reg. Ent. Reference No.** RN101278224  
**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
<b>ONE-TIME avoided costs [3]</b>	\$150	1-Dec-2012	31-May-2013	1.41	\$11	\$150	\$161
Other (as needed)	\$25	1-Jan-2013	31-Jul-2013	1.50	\$2	\$25	\$27

Notes for AVOIDED costs

The avoided costs include the estimated amount (\$25 x six samples) to conduct routine coliform sampling, calculated for the months sampling was not conducted. The other avoided costs include the estimated amount to post public notification (\$5 per notice), calculated for the period in which public notification was required.

Approx. Cost of Compliance

\$175

**TOTAL**

\$187

**Screening Date** 29-Aug-2013  
**Respondent** Steve Hebert dba Star Café  
**Case ID No.** 47528  
**Reg. Ent. Reference No.** RN101278224  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Sam Keller

**Docket No.** 2013-1627-PWS-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

**Violation Description**

Failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91013024 for Fiscal Year 2013.

**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 type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

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 type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

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

**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	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** Steve Hebert dba Star Café  
**Case ID No.** 47528  
**Reg. Ent. Reference No.** RN101278224  
**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

n/a

## Avoided Costs

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

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

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance

\$0

**TOTAL**

\$0



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604156620, RN101278224, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604156620, Steve Hebert	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Regulated Entity:</b>	RN101278224, Star Cafe	<b>Classification:</b> NOT APPLICABLE	<b>Rating:</b> N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	21522 FARM-TO-MARKET ROAD 2100, HARRIS COUNTY, TEXAS		
<b>TCEQ Region:</b>	REGION 12 - HOUSTON		
<b>ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION</b>	1013024		

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	August 27, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	August 27, 2008 to August 27, 2013				

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

**Name:** Sam Keller **Phone:** (512) 239-2678

## 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? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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 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 December 11, 2012 (1035344)

### 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:	10/22/2012	(1056483)	CN604156620
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)		

Description: 30 TAC Chapter 290, SubChapter F 290.122(f)  
APR/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 04/2012.

- 2 Date: 11/06/2012 (1056483) CN604156620  
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 08/2012 - Failure to collect any routine monitoring samples.
- 3 Date: 01/22/2013 (1056483) CN604156620  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: AUG/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 08/2012.
- 4 Date: 02/11/2013 (1106171) CN604156620  
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 MR Violation 12/2012 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 5 Date: 03/13/2013 (1106171) CN604156620  
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 MR Violation 01/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 6 Date: 04/01/2013 (1106171) CN604156620  
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 MR Violation 02/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 7 Date: 04/25/2013 (1106171) CN604156620  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: DEC/2012 TCR Routine MR 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 routine coliform monitoring for the month of 12/2012.
- 8 Date: 05/09/2013 (1106171) CN604156620  
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 MR Violation 03/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 9 Date: 05/21/2013 (1106171) CN604156620  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: JAN/2013 TCR Routine MR 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 routine coliform monitoring for the month of 01/2013.

- 10 Date: 06/04/2013 (1106171) CN604156620  
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 MR Violation 04/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 11 Date: 06/21/2013 (1106171) CN604156620  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: FEB/2013 TCR Routine MR 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 routine coliform monitoring for the month of 02/2013.
- 12 Date: 07/10/2013 (1106171) CN604156620  
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 MR Violation 05/2013 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 13 Date: 07/24/2013 (1106171) CN604156620  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: MAR/2013 TCR Routine MR 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 routine coliform monitoring for the month of 03/2013.

**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  
STEVE HEBERT DBA STAR CAFÉ;  
RN101278224**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2013-1627-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 Steve Hebert d/b/a Star Café ("Respondent") under the authority of TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that he has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

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

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

### **FINDINGS OF FACT**

1. Respondent owned, on the dates the violations occurred, a public water system located at 21522 Farm-to-Market Road 2100 in Crosby, Harris County, Texas (the "Facility"). The Facility provided water for human consumption, had approximately one service connection, and served at least 25 people per day for at least 60 days per year. As such, the Facility was a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on July 22, 2013, TCEQ Central Office staff documented that Respondent failed to collect routine distribution samples for coliform analysis for the months of December 2012 through May 2013, and failed to provide public notification of the failure to collect routine samples for the months of December 2012 through April 2013.
3. During a record review conducted on August 27, 2013, TCEQ Central Office staff documented that Respondent failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91013024 for Fiscal Year 2013.
4. Respondent received notice of the violation in Finding of Fact No. 2 on or about August 19, 2013. Respondent received notice of the violation in Finding of Fact No. 3 on or about October 16, 2013.

5. The Executive Director recognizes that Respondent inactivated the Facility on June 6, 2013.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to collect routine distribution samples for coliform analysis, and failed to provide public notification of the failure to collect routine samples, 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)(A).
3. As evidenced by Finding of Fact No. 3, Respondent failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91013024, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of one thousand six hundred seventy-two dollars (\$1,672.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid one thousand six hundred seventy-two dollars (\$1,672.00) of the administrative penalty.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 5, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Respondent shall submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91013024. The payment shall be sent with the notation "Steve Hebert d/b/a Star Café, TCEQ Financial Administration Account No. 91013024" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088;
  - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a

State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

James Beauchamp, Jr., Section Manager  
Public Drinking Water Section, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of this Agreed Order shall apply to and be binding upon Respondent.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

  
\_\_\_\_\_  
For the Executive Director

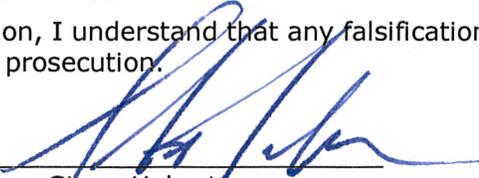
May 19, 2014  
Date

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

I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

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

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

  
\_\_\_\_\_  
Signature - Steve Hebert

4-6-14  
Date