

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41093
RAYS ACQUISITION COMPANY LLC
RN105915656
Docket No. 2013-0771-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

45550 Farm-to-Market Road 1774, Waller County

Type of Operation:

pubic water supply

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: March 28, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$6,089

Total Paid to General Revenue: \$314

Total Due to General Revenue: \$5,775

Payment Plan: 35 payments of \$165 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

RAYS ACQUISITION COMPANY LLC

RN105915656

Docket No. 2013-0771-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 26, 2012
Date(s) of NOV(s): See Compliance History - 6 related NOVs
Date(s) of NOE(s): December 14, 2012

Violation Information

Failed to collect routine distribution water samples for coliform analysis, failed to provide public notice of the failure to collect the routine samples, and failed to submit copies of public notices to the Executive Director [TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and (f); and TCEQ Agreed Order Docket No. 2011-0182-PWS-E, Ordering Provisions Nos. 2.a.i., 2.a.ii., and 2.d.].

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

The Facility was deactivated on November 15, 2012.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: December 2, 2013
Date Answer(s) Filed: January 7, 2014
Settlement Date: February 20, 2014

Contact Information

TCEQ Attorneys: Joel Cordero, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, (512) 239-2576

TCEQ Regional Contact: Steve Smith, Houston Regional Office, (713) 767-3500

Respondent Contact: Gerald Free, Member, RAYS ACQUISITION COMPANY LLC, 25502 Candy Lane, Magnolia, Texas 77355

Respondent's Attorney: Anthony T. Sortino, Clifton Dodson Sortino, LLP, 500 W. Main St., Tomball, Texas 77375



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	18-Mar-2013	Screening	18-Apr-2013	EPA Due	30-Sep-2012
	PCW	25-Nov-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	RAYS ACQUISITION COMPANY LLC
Reg. Ent. Ref. No.	RN105915656
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41093	No. of Violations	1
Docket No.	2013-0771-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	55.0% Enhancement	Subtotals 2, 3, & 7 \$2,062

Notes: Enhancement for six NOVs with same/similar violations and one order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.			

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$277	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$250		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,812
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OTHER FACTORS AS JUSTICE MAY REQUIRE	4.8%	Adjustment	\$277
Notes	Enhancement to capture the avoided costs of compliance for Violation No. 1.		
		Final Penalty Amount	\$6,089

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,089
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Notes	No deferral is recommended for Findings Orders.			

PAYABLE PENALTY	\$6,089
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Screening Date 18-Apr-2013

Docket No. 2013-0771-PWS-E

PCW

Respondent RAYS ACQUISITION COMPANY LLC

Policy Revision 2 (September 2002)

Case ID No. 41093

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105915656

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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 six NOVs with same/similar violations and one order without a denial of liability.

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

Screening Date 18-Apr-2013

Docket No. 2013-0771-PWS-E

PCW

Respondent RAYS ACQUISITION COMPANY LLC

Policy Revision 2 (September 2002)

Case ID No. 41093

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105915656

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(A)(i), 290.122(c)(2)(B), and 290.122(f), Tex. Health & Safety Code § 341.033(d), and TCEQ Agreed Order Docket No. 2011-0182-PWS-E, Ordering Provision Nos. 2.a.i., 2.a.ii. and 2.d.

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of November 2011, February 2012, and April 2012 through June 2012; failed to provide public notice of the failure to sample for the months of November 2011, February 2012, and April 2012 through June 2012; and failed to submit a copy of the public notices to the Executive Director for the months of November 2011, February 2012, and April 2012 through June 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Matrix Notes

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

Adjustment \$750

\$250

Violation Events

Number of Violation Events 15 466 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

Fifteen monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-0182-PWS-E, August 27, 2011, to the inactivation of the public water supply, November 15, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$277

Violation Final Penalty Total \$6,090

This violation Final Assessed Penalty (adjusted for limits) \$6,090

Economic Benefit Worksheet

Respondent RAYS ACQUISITION COMPANY LLC
Case ID No. 41093
Reg. Ent. Reference No. RN105915656
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	27-Aug-2011	15-Nov-2012	2.14	\$16	\$150	\$166
Other (as needed)	\$100	27-Aug-2011	15-Nov-2012	2.14	\$11	\$100	\$111

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25 per sample x 5 missed samples for a total of \$125) to conduct routine coliform sampling and provide public notification (\$5 per notice x 5 missed notices for a total of \$25) of the failure to sample, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-0182-PWS-E to the inactivation of the public water supply. The other avoided cost includes the estimated amount to implement improvements to the Facility's process, procedures, guidance, training and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the effective date of TCEQ Agreed Order Docket No. 2011-0182-PWS-E to the inactivation of the public water supply.

Approx. Cost of Compliance \$250

TOTAL \$277

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603662115, RN105915656, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603662115, RAYS ACQUISITION COMPANY LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN105915656, KRUZZERS ROADHOUSE **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 45550 FARM-TO-MARKET ROAD 1774, WALLER COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

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

Date Compliance History Report Prepared: April 18, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 18, 2008 to April 18, 2013

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

Name: Abigail Lindsey

Phone: (512) 239-1000

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES 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:

1 Effective Date: 08/27/2011 **ADMINORDER 2011-0182-PWS-E (Findings Order-Agreed Order Without Denial)**

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 06/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 06/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 07/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 07/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 08/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 08/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 09/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 11/2010 - Failure to collect any routine monitoring sample(s).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).
Classification: Minor
Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 290, SubChapter E 290.51(a)(3)
Description: Failed to pay annual public health service fees, including associated late fees, for TCEQ Financial Administration Account No. 92370100 for Fiscal Year 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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: 04/24/2012 (1050386) CN603662115

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: 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.

2 Date: 06/22/2012 (1050386) CN603662115

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 4/2012 - Failure to collect any routine monitoring sample(s).

3 Date: 07/06/2012 (1050386) CN603662115

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 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 2/2012.

4 Date: 07/23/2012 (1050386) CN603662115

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 5/2012 - Failure to collect any routine monitoring sample(s).

5 Date: 09/19/2012 (1050386) CN603662115

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 6/2012 - Failure to collect any routine monitoring sample(s).

6 Date: 10/22/2012 (1050386) CN603662115

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: 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 4/2012.

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
RAYS ACQUISITION COMPANY LLC;
RN105915656**

§
§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-0771-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 RAYS ACQUISITION COMPANY LLC ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Anthony T. Sortino of the law firm Clifton Dodson Sortino, LLP, presented this Agreed Order to the Commission.

Respondent understands that it 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 and operated a public water system located at 45550 Farm-to-Market Road 1774 in Waller County, Texas (the "Facility"). The Facility provided water for human consumption, had approximately 8 service connections, 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 November 26, 2012, TCEQ Central Office staff documented that Respondent failed to collect routine distribution water samples for coliform analysis for the months of November 2011, February 2012, and April 2012 through June 2012; failed to provide public notice of the failure to collect routine samples for the months of November 2011, February 2012, and April 2012 through June 2012; and failed to submit copies of public notices to the Executive Director for the months of November 2011, February 2012, and April 2012 through June 2012.
3. Respondent received notice of the violations on or about December 19, 2012.
4. The Executive Director recognizes that the Facility was deactivated on November 15, 2012.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to collect routine distribution water samples for coliform analysis, failed to provide public notice of the failure to collect the routine samples, and failed to submit copies of public notices to the Executive Director, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d), 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and (f), and TCEQ Agreed Order Docket No. 2011-0182-PWS-E, Ordering Provisions Nos. 2.a.i., 2.a.ii., and 2.d.
3. 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.
4. An administrative penalty in the amount of six thousand eighty-nine dollars (\$6,089.00) 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 three hundred fourteen dollars (\$314.00) of the administrative penalty. The remaining amount of five thousand seven hundred seventy-five dollars (\$5,775.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred sixty-five dollars (\$165.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: RAYS ACQUISITION COMPANY LLC, Docket No. 2013-0771-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 provisions of this Agreed Order shall apply to and be binding upon Respondent.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
5. 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.
6. 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.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. 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.

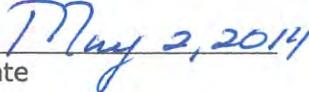
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



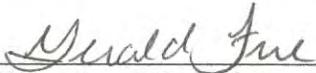
Date

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 RAYS ACQUISITION COMPANY LLC, 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.

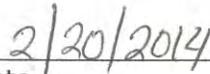
I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

- 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 - Gerald Free, Member
RAYS ACQUISITION COMPANY LLC



Date