

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47281
Paula Reagan d/b/a Lucky Roadhouse BBQ
RN106096514
Docket No. 2013-1393-PWS-E

Order Type:
Default Order

Media:
PWS

Small Business:
N/A

Location(s) Where Violation(s) Occurred:
9520 Harmonson Road, Justin, Denton 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:	\$284 (Account No. 90610267)
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 11, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$7,307

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$7,307

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: \$13 enhancement

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: April 30, 2013

Date(s) of NOV(s): N/A

Date(s) of NOE(s): July 9, 2013

Violation Information

1. Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection [30 TEX. ADMIN. CODE §§ 290.42(b)(1) and (e)(3) and 290.110(a)].
2. Failed to provide a minimum pressure tank capacity of 220 gallons [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.45(d)(2)(A)(ii)].
3. Failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service [30 TEX. ADMIN. CODE § 290.46(n)(3)].
4. Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well [30 TEX. ADMIN. CODE § 290.41(c)(1)(D)].
5. Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].
6. Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].
7. Failed to make water works operation and maintenance records available for review by Commission personnel during an investigation [30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(E)(i)].
8. Failed to pay all annual Public Health Service fees for fiscal years 2012 and 2013, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90610267, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Facility was inactivated on August 19, 2013.

Technical Requirements:

Within 30 days, submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 90610267

Litigation Information

Date Petition(s) Filed: December 13, 2013; January 6, 2014
Date Green Card(s) Signed: Unclaimed; Unclaimed
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Ryan Rutledge, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, (210) 403-4016

TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office (817) 588-5800

Respondent: Paula Reagan, 9520 Harmonson Road Justin, Texas 76247;
Paula Reagan, 4001 Burwood Dr. Roanoke, Texas 76262

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	15-Jul-2013			
	PCW	8-Nov-2013	Screening	23-Jul-2013	EPA Due

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

CASE INFORMATION					
Enf./Case ID No.	47281	No. of Violations	8		
Docket No.	2013-1393-PWS-E	Order Type	1660		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Katy Montgomery		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,910
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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	25.0%	Enhancement	Subtotals 2, 3, & 7
			\$477

Notes	Enhancement for one agreed order without a denial of liability.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,908	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,045	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,387
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OTHER FACTORS AS JUSTICE MAY REQUIRE	205.6%	Adjustment	\$4,907
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to recover the avoided costs of compliance associated with Violation Nos. 1 through 7.
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Final Penalty Amount	\$7,294
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,307
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$7,307
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Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

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>)	0	0%
	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) 25%

>> 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 one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.42(b)(1) and (e)(3) and 290.110(a)

Violation Description

Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection. Specifically, at the time of the investigation, it was documented that the Facility did not have any disinfection facilities to disinfect the groundwater supplied from the water well, and the water is pumped directly to the system without any treatment or additions.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Without disinfection facilities, there is no method to ensure microbiological control and proper disinfection of the water exposing customers of the Facility to contaminants which would exceed levels that are protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3

84 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$450

Three monthly events are recommended, calculated from the investigation date, April 30, 2013, to the screening date, July 23, 2013.

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 \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$191

Violation Final Penalty Total \$1,719

This violation Final Assessed Penalty (adjusted for limits) \$1,719

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
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
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	\$600	30-Apr-2013	19-Aug-2013	0.30	\$9	\$182	\$192
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

The avoided cost includes the estimated amount to provide disinfection facilities for microbiological control and distribution protection, calculated from the date of the investigation to the inactivation date.

Approx. Cost of Compliance

\$600

TOTAL

\$191

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.45(d)(2)(A)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a minimum pressure tank capacity of 220 gallons. Specifically, the Facility is a non-transient/non-community public water system that requires a minimum pressure tank capacity of 220 gallons; however, the Facility only provides a pressure tank capacity of 88 gallons, indicating a 60% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide adequate pressure tank capacity may cause back siphonage and low pressure that could expose customers of the Facility to contaminants that would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3

84 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$450

Three monthly events are recommended, calculated from the investigation date, April 30, 2013, to the screening date, July 23, 2013.

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 \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,122

Violation Final Penalty Total \$1,719

This violation Final Assessed Penalty (adjusted for limits) \$1,719

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Public Water Supply
Violation No. 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]	\$2,000	30-Apr-2013	19-Aug-2013	1.22	\$122	\$2,000	\$2,122
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide a minimum pressure tank capacity of 220 gallons, calculated from the investigation date to the inactivation date.

Approx. Cost of Compliance

\$2,000

TOTAL

\$2,122

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3)

Violation Description

Failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

Matrix Notes

100% of the rule requirement was met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 84 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is 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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,061

Violation Final Penalty Total \$191

This violation Final Assessed Penalty (adjusted for limits) \$191

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Public Water Supply
Violation No. 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]	\$1,000	30-Apr-2013	19-Aug-2013	1.22	\$61	\$1,000	\$1,061
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to obtain the required well completion data, calculated from the investigation date to the inactivation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,061

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(D)

Violation Description

Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well. Specifically, at the time of the investigation, it was documented that the well was located in a livestock pasture and there were not any fences or other methods of keeping livestock over 50 feet from the well.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to keep livestock at least 50 feet from the well could expose customers of the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3

84 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$450

Three monthly events are recommended, calculated from the investigation date, April 30, 2013, to the screening date, July 23, 2013.

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 \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,061

Violation Final Penalty Total \$1,719

This violation Final Assessed Penalty (adjusted for limits) \$1,719

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Public Water Supply
Violation No. 4

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]	\$1,000	30-Apr-2013	19-Aug-2013	1.22	\$61	\$1,000	\$1,061
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to erect a fence to prevent livestock from roaming within 50 feet of the well, calculated from the date of the investigation to the inactivation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,061

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.42(I)

Violation Description

Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference. Specifically, at the time of the investigation, it was documented that the Respondent did not provide a plant operations manual.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

84 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is 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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$191

This violation Final Assessed Penalty (adjusted for limits) \$191

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Violation No. Public Water Supply
 5

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]	\$100	30-Apr-2013	19-Aug-2013	1.22	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to develop and maintain a plant operations manual, calculated from the date of the investigation to the inactivation date.

Approx. Cost of Compliance \$100

TOTAL \$106

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data. Specifically, at the time of the investigation, it was documented that the well did not have a flow meter.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Failure to provide an accurate flow measuring device for the well could lead to incorrect water usage calculations and prevent the operator from obtaining accurate well production data and determining proper amounts of disinfection of raw water, thereby exposing customers to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3 84 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$450

Three monthly events are recommended, calculated from the investigation date, April 30, 2013, to the screening date, July 23, 2013.

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 \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$318

Violation Final Penalty Total \$1,719

This violation Final Assessed Penalty (adjusted for limits) \$1,719

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Public Water Supply
Violation No. 6

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]	\$300	30-Apr-2013	19-Aug-2013	1.22	\$18	\$300	\$318
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide the well with a flow measuring device, calculated from the investigation date to the inactivation date.

Approx. Cost of Compliance

\$300

TOTAL

\$318

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(2) and (f)(3)(E)(i)

Violation Description

Failed to make water works operation and maintenance records available for review by Commission personnel during an investigation. Specifically, the Respondent did not provide Monthly Operating Reports.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

84 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$10

One single event is 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 \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$48

Violation Final Penalty Total \$38

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Public Water Supply
Violation No. 7

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]	\$45	30-Apr-2013	19-Aug-2013	1.22	\$3	\$45	\$48
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to begin maintaining a recordkeeping system for the Monthly Operating Reports, calculated from the investigation date to the inactivation date.

Approx. Cost of Compliance

\$45

TOTAL

\$48

Screening Date 23-Jul-2013

Docket No. 2013-1393-PWS-E

PCW

Respondent Paula Reagan dba Lucky Roadhouse BBQ

Policy Revision 3 (September 2011)

Case ID No. 47281

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106096514

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 8

Rule Cite(s)

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

Violation Description

Failed to pay all annual Public Health Service fees, for fiscal years 2012 and 2013, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90610267.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

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

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 \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Paula Reagan dba Lucky Roadhouse BBQ
Case ID No. 47281
Reg. Ent. Reference No. RN106096514
Media Public Water Supply
Violation No. 8

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

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 CN603818642, RN106096514, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603818642, REAGAN, PAULA **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN106096514, LUCKY ROADHOUSE BBQ **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 9520 HARMONSON ROAD, DENTON COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0610267

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

Date Compliance History Report Prepared: July 23, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 23, 2008 to July 23, 2013

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

Name: Katy Montgomery **Phone:** (210) 403-4016

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: 02/10/2013 ADMINORDER 2012-0849-PWS-E (Findings Order-Agreed Order Without Denial)**
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)
30 TAC Chapter 290, SubChapter F 290.106(e)
 - Description: MTL MR 3Y2011 - This system failed to monitor and/or failed to report metal levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)
30 TAC Chapter 290, SubChapter F 290.106(e)
 - Description: MIN MR 3Y2011 - This system failed to monitor and/or failed to report mineral levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.
 - Classification: Major
 - Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(e)
 - Description: NO32 MR YR2011 - This system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the annual monitoring period from 01/01/2011 to 12/31/2011.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
5A THSC Chapter 341, SubChapter A 341.033(d)
 - Description: Jun/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2011.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
5A THSC Chapter 341, SubChapter A 341.033(d)
 - 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.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)
 - Description: TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample(s).
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Aug/2011 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code § 290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 08/2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 04/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Apr/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 04/2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 05/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: May/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 05/2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 06/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 07/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.122(f)
5A THSC Chapter 341, SubChapter A 341.033(d)

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.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 10/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

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

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 12/2011 - Failure to collect any routine monitoring sample(s).

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.

N/A

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
PAULA REAGAN D/B/A
LUCKY ROADHOUSE BBQ;
RN106096514**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-1393-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Paula Reagan d/b/a Lucky Roadhouse BBQ ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a restaurant with a public water system located at 9520 Harmonson Road in Justin, Denton County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 1 service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted on April 30, 2013, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection. Specifically, the Facility did not have any disinfection facilities to disinfect the groundwater supplied from the water well, and the water is pumped directly to the system without any treatment or additions;
 - b. Failed to provide a minimum pressure tank capacity of 220 gallons. Specifically, the Facility is a non-transient/non-community public water system that requires a minimum pressure tank capacity of 220 gallons; however, the Facility only provides a pressure tank capacity of 88 gallons, indicating a 60% deficiency;
 - c. Failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service;
 - d. Failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well. Specifically, the well was located in a livestock pasture and there were not any fences or other methods of keeping livestock over 50 feet from the well;

- e. Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference. Specifically, Respondent did not provide a plant operations manual;
 - f. Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data. Specifically, the well did not have a flow meter;
 - g. Failed to make water works operation and maintenance records available for review by Commission personnel during an investigation. Specifically, Respondent did not provide Monthly Operating Reports; and
 - h. Failed to pay all annual Public Health Service fees for fiscal years 2012 and 2013, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90610267.
3. Respondent received notice of the violations on or about July 14, 2013.
 4. The Executive Director recognizes that the Facility was inactivated on August 19, 2013.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Paula Reagan d/b/a Lucky Roadhouse BBQ" (the "EDPRP") in the TCEQ Chief Clerk's office on December 13, 2013.
 6. The EDPRP was mailed to Respondent's last known address on December 13, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
 7. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on January 6, 2014.
 8. By letter dated January 6, 2014, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
 9. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide disinfection facilities for the groundwater supply to ensure microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE §§ 290.42(b)(1) and (e)(3) and 290.110(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide a minimum pressure tank capacity of 220 gallons, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.45(d)(2)(A)(ii).

4. As evidenced by Finding of Fact No. 2.c., Respondent failed to maintain copies of well completion data such as well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, microbiological sample results, and a chemical analysis report of a representative sample of water from the well kept on file as long as the well remains in service, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to ensure that livestock in pastures are not allowed within 50 feet of a water supply well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(D).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N).
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to make water works operation and maintenance records available for review by Commission personnel during an investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(E)(i).
9. As evidenced by Finding of Fact No. 2.h., Respondent failed to pay all annual Public Health Service fees for fiscal years 2012 and 2013, including any associated late fees and penalties, for TCEQ Financial Administration Account No. 90610267, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
10. As evidenced by Findings of Fact Nos. 5 through 8, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
11. As evidenced by Finding of Fact No. 9, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(e) and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
12. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
13. An administrative penalty in the amount of seven thousand three hundred seven dollars (\$7,307.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
14. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of seven thousand three hundred seven dollars (\$7,307.00) for violations of state statutes and rules of

the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Paula Reagan d/b/a Lucky Roadhouse BBQ; Docket No. 2013-1393-PWS-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 90610267. The payments shall be sent with the notation "Re: Paula Reagan dba Lucky Roadhouse BBQ" 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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF RYAN RUTLEDGE

STATE OF TEXAS

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§
§

COUNTY OF TRAVIS

"My name is Ryan Rutledge. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

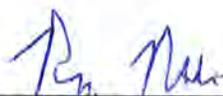
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Paula Reagan d/b/a Lucky Roadhouse BBQ" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 13, 2013.

The EDPRP was mailed to Respondent's last known address on December 13, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on January 6, 2014.

The EDPRP was mailed to Respondent's last known address on January 6, 2014, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

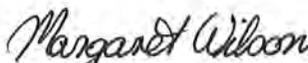
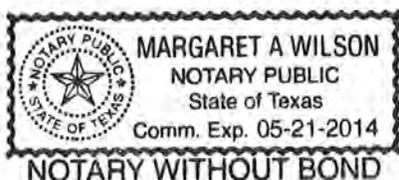
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Ryan Rutledge, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Ryan Rutledge, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 18th day of MARCH, A.D. 2014.



Notary Signature