

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48659
EL VIAJE RETREAT, LLC
RN104490685
Docket No. 2014-0667-PWS-E

Order Type:

Default Order

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

2.8 miles north of Medina on State Highway 16, Bandera County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$2,718.00 (2013-0681-PWS-E)
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: December 19, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$891

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$891

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: April 14, 2014

Date(s) of NOV(s): See Compliance History – 5 related NOVs

Date(s) of NOE(s): April 25, 2014

EL VIAJE RETREAT, LLC
RN104490685
Docket No. 2014-0667-PWS-E

Violation Information

1. Failed to provide the results of triennial cyanide and synthetic organic chemical contaminants (methods 504, 515 and 531) sampling to the Executive Director [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e)].
2. Failed to provide the results of annual nitrate sampling to the Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
3. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)]
4. Failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result, and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect raw groundwater source *Escherichia coli* samples [30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(a) and (f)].
5. Failed to post public notifications and submit a copy of the public notification to the Executive Director regarding the failure to submit a Disinfectant Level Quarterly Operating Report and regarding the failure to collect repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result [30 TEX. ADMIN. CODE § 290.122(c)(2)(a) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns or operates the Facility as of April 15, 2014.

Technical Requirements:

1. Within 30 days ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Inorganic Contaminants) and 290.107 (Organic Contaminants); and
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: June 26, 2014; July 17, 2014; September 29, 2014
Date Green Card(s) Signed: Unclaimed; Unclaimed; August 19, 2014 (service obtained through the Secretary of State)
Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, (512) 239-2602

TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 403-4050

Respondent Contact: Margaret Susan Venus, Manager, EL VIAJE RETREAT, LLC, 17185 State Highway 16 North, Medina, Texas 78055

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	28-Apr-2014			
	PCW	9-Jun-2014	Screening	30-Apr-2014	EPA Due 30-Jun-2014

RESPONDENT/FACILITY INFORMATION	
Respondent	EL VIAJE RETREAT, LLC
Reg. Ent. Ref. No.	RN104490685
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	48659	No. of Violations	5
Docket No.	2014-0667-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	\$600
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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	10.0% Enhancement Subtotals 2, 3, & 7 \$60

Notes	Enhancement for five NOVs with the same/similar violations.
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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	\$265	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$754	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$660
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OTHER FACTORS AS JUSTICE MAY REQUIRE	35.0%	Adjustment	\$231
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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 Violations Nos. 3 through 5.
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Final Penalty Amount	\$891
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$891
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$891
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Screening Date 30-Apr-2014

Docket No. 2014-0667-PWS-E

PCW

Respondent EL VIAJE RETREAT, LLC

Policy Revision 4 (April 2014)

Case ID No. 48659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104490685

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	5	10%
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 judgments 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) 10%

>> 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 five NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date 30-Apr-2014 **Docket No.** 2014-0667-PWS-E **PCW**
Respondent EL VIAJE RETREAT, LLC *Policy Revision 4 (April 2014)*
Case ID No. 48659 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN104490685
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
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)	\$529	31-Dec-2013	30-Nov-2014	0.92	\$2	\$32	\$34
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees (\$74.76 for cyanide, \$75.67 for SOC contaminants method 504, \$313.25 for SOC contaminants method 515, \$57.01 for SOC contaminants method 531 and \$8.49 for nitrate) so that the lab will release all drinking water chemical analysis results, calculated from the last date of the monitoring period for which results were not provided to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$529

TOTAL \$34

Screening Date 30-Apr-2014
Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Docket No. 2014-0667-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.106(e)

Violation Description

Failed to provide the results of annual nitrate sampling to the Executive Director. Specifically, the Respondent failed to provide nitrate monitoring results for the 2013 monitoring period.

Base Penalty

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

OR

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

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes

The 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 EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
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

The delayed cost of compliance is captured in the Economic Benefit Worksheet for Violation No. 1.

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

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 30-Apr-2014
Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Docket No. 2014-0667-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected during the month of February 2014. Specifically, the Respondent did not collect any of the four required repeat distribution coliform samples.

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" value="x"/>	<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

Failure to collect repeat samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

One monthly event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
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]	\$100	19-Feb-2014	20-Feb-2014	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated cost to collect a total of four repeat water samples (\$25 per sample), calculated for the 24-hour period following the total coliform-positive result.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 30-Apr-2014
Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Docket No. 2014-0667-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(4)(B) and 290.122(c)(2)(A) and (f)

Violation Description

Failed to collect raw groundwater source Escherichia coli samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the month of October 2013, and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect raw groundwater source Escherichia coli samples for the month of October 2013.

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 perform raw groundwater source monitoring and provide public notification could result in customers of the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 31 Number of violation days

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

Violation Base Penalty \$150

One monthly 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$51

Violation Final Penalty Total \$223

This violation Final Assessed Penalty (adjusted for limits) \$223

Economic Benefit Worksheet

Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
Media Violation No. Public Water Supply
 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]	\$25	31-Oct-2013	1-Nov-2013	0.00	\$0	\$25	\$25
Other (as needed)	\$25	2-Nov-2013	1-Feb-2014	1.17	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect raw groundwater source samples for each active groundwater well (\$25 per sample) and to provide public notification (\$25 per notification) regarding the failure to collect raw groundwater source samples, calculated for the 24-hour period following the coliform-positive result and during the period public notification was required.

Approx. Cost of Compliance \$50

TOTAL \$51

Screening Date 30-Apr-2014
Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Docket No. 2014-0667-PWS-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to post public notifications and submit a copy of the public notification to the Executive Director regarding the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") for the first and second quarters of 2013 and regarding the failure to collect repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for the month of October 2013.

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 3

272 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

Three single 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$80

Violation Final Penalty Total \$223

This violation Final Assessed Penalty (adjusted for limits) \$223

Economic Benefit Worksheet

Respondent EL VIAJE RETREAT, LLC
Case ID No. 48659
Reg. Ent. Reference No. RN104490685
Media Public Water Supply
Violation No. 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]	\$50	11-Apr-2013	10-Oct-2013	1.42	\$4	\$50	\$54
Other (as needed)	\$25	1-Nov-2013	31-Jan-2014	1.17	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification (\$25 per notification) regarding the failure to submit DLQORs and regarding the failure to collect repeat distribution coliform samples, calculated for the periods when public notifications were required.

Approx. Cost of Compliance \$75

TOTAL \$80

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 CN603434929, RN104490685, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603434929, EL VIAJE RETREAT, LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN104490685, EL VIAJE RETREAT **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 2.8 MILES NORTH OF MEDINA ON HIGHWAY 16 NEAR MEDINA, BANDERA COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0100082

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: April 30, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 30, 2009 to April 30, 2014

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? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If YES for #2, who is the current owner/operator? El Viaje Retreat, LLC OWNER since 9/23/2008
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Freeman, Robert N, OWNER, 1/1/1800 to 9/23/2008
- 5) If YES, when did the change(s) in owner or operator occur? 9/23/2008

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 April 19, 2014 (1157634)

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: 01/09/2014 (1164325) CN603434929**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
30 TAC Chapter 290, SubChapter F 290.109(e)
Description: GWR Triggered Source MR Violation 10/2013 - Failure to collect and/or report any triggered source monitoring samples following a coliform found result for 1 source within the required timeline.
- 2 Date: 02/21/2014 (1164325) CN603434929**
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: OCT 2013 TCR Repeat 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 repeat coliform monitoring for the month of 10/2013.
- 3 Date: 02/26/2014 (1164325) CN603434929**
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: DLQOR MR PN 2Q2013 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 a disinfectant monitoring and reporting violation during the 2nd quarter of 2013.
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: DLQOR MR PN 1Q2013 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 a disinfectant monitoring and reporting violation during the 1st quarter of 2013.

4 Date: 04/04/2014 (1164325) CN603434929
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(e)
Description: TCR Repeat MR Violation 2/2014 - Failure to collect and/or submit any repeats following a coliform found result within the required timeline.

5 Date: 04/17/2014 (1164325) CN603434929
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: OCT 2013 GWR Triggered Source Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the ED 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 triggered source monitoring for the month of 10/2013.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
EL VIAJE RETREAT, LLC;
RN104490685**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2014-0667-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is EL VIAJE RETREAT, LLC ("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 2.8 miles north of Medina on State Highway 16 in Bandera County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately thirty service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on April 14, 2014, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to provide the results of triennial cyanide and synthetic organic chemical ("SOC") contaminants (methods 504, 515 and 531) sampling to the Executive Director for the January 1, 2011 through December 31, 2013 monitoring period;
 - b. Failed to provide the results of annual nitrate sampling to the Executive Director for the 2013 monitoring period;
 - c. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected during the month of February 2014. Specifically, Respondent did not collect any of the four required repeat distribution coliform samples;
 - d. Failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the month of October 2013, and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect raw groundwater source *Escherichia coli* samples for the month of October 2013; and
 - e. Failed to post public notifications and submit a copy of the public notification to the Executive Director regarding the failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") for the first and second quarters of 2013 and regarding the failure to collect repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for the month of October 2013.

3. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of April 15, 2014.
4. 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 EL VIAJE RETREAT, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on June 26, 2014.
5. The EDPRP was mailed to Respondent's last known address on June 26, 2014, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on July 17, 2014.
7. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail was also returned.
8. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on September 29, 2014.
9. By letter dated September 29, 2014, the Executive Director requested that the Secretary of State –Citations Unit (the "SOS") serve Respondent with a copy of the EDPRP. The Executive Director received a letter from the SOS dated October 22, 2014, indicating proper citation and service.
10. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide the results of triennial cyanide and SOC contaminants (methods 504, 515 and 531) sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide the results of annual nitrate sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect raw groundwater source *Escherichia coli* samples from all active sources within 24 hours of being notified of a distribution total coliform-positive result, and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect raw groundwater source *Escherichia coli* samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(4)(B) and 290.122(c)(2)(a) and (f).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed post public notifications and submit a copy of the public notification to the Executive Director regarding the failure to submit a DLQOR and regarding the failure to collect repeat distribution

coliform samples within 24 hours of being notified of a total coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(a) and (f).

7. As evidenced by Findings of Fact Nos. 4 through 9, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and TEX. BUS. ORG. CODE §§ 5.251(1)(B), 5.252, and 5.253.
8. As evidenced by Finding of Fact No. 10, 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 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.
9. 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.
10. An administrative penalty in the amount of eight hundred ninety-one dollars (\$891.00) 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.
11. 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 eight hundred ninety-one dollars (\$891.00) 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: EL VIAJE RETREAT, LLC; Docket No. 2014-0667-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, ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Inorganic Contaminants) and 290.107 (Organic Contaminants); and

- b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.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 certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

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 STEVEN M. FISHBURN

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Steven M. Fishburn. 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 EL VIAJE RETREAT, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 26, 2014.

The EDPRP was mailed to Respondent's last known address on June 26, 2014, 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 July 17, 2014.

The EDPRP was mailed to Respondent's last known address on July 17, 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 was also returned.

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 September 29, 2014.

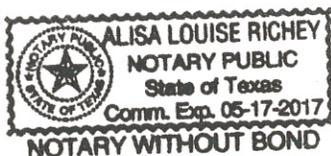
By letter dated September 29, 2014, the Executive Director that the Secretary of State - Citations Unit (the "SOS") serve Respondent with a copy of the EDPRP. The Executive Director received a letter from the SOS dated October 22, 2014, indicating proper citation and service.

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."

Steven M. Fishburn, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, 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.

Subscribed and sworn to before me on this 30 day of October, A.D. 2014.



Notary Public, State of Texas