

**Executive Summary – Enforcement Matter – Case No. 49394
Marin Gonzalez dba Lazy Palms Ranch
RN101281582
Docket No. 2014-1422-PWS-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Lazy Palms Ranch, two and one-half miles southwest of Linn, two miles west of U.S. Highway 281, one-half mile north of Floral Road near Edinburg, Hidalgo County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 20, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$756

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$189

Total Due to General Revenue: \$567

Payment Plan: 3 payments of \$189 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 49394
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RN101281582
Docket No. 2014-1422-PWS-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: September 8, 2014 through September 19, 2014 and September 24, 2014

Date(s) of NOE(s): September 19, 2014

Violation Information

1. Failed to provide public notification and submit a copy of the public notification to the Executive Director ("ED") regarding the failure to comply with the acute maximum contaminant level ("MCL") for nitrate for the fourth quarter of 2012 through the fourth quarter of 2013 and the second quarter of 2014 [30 TEX. ADMIN. CODE § 290.122(a)(3)(C) and (f)].
2. Failed to provide public notification and submit a copy of the public notification to the ED regarding the failure to conduct triggered source monitoring, the failure to collect secondary constituent samples, and the failure to conduct repeat coliform monitoring [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].
3. Failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91080147 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Submit payment for all outstanding fees, interest, and penalties for TCEQ Account No. 91080147; and

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility with a copy to the ED, including but not limited to providing public notification regarding the failure to comply with the acute MCL for nitrate, the failure to conduct triggered source monitoring, the failure to collect secondary constituent samples, and the failure to conduct repeat coliform monitoring.

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b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.ii.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Lisa Westbrook, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1160; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Marin Gonzales, Owner, Lazy Palms Ranch, 35100 Lazy Palm Drive, Edinburg, Texas 78541
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	22-Sep-2014	Screening	24-Sep-2014	EPA Due	31-Dec-2014
	PCW	25-Sep-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	Marin Gonzalez dba Lazy Palms Ranch
Reg. Ent. Ref. No.	RN101281582
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	49394	No. of Violations	3
Docket No.	2014-1422-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Sam Keller
		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	\$500
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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.	
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Compliance History	40.0% Enhancement	Subtotals 2, 3, & 7	\$200
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Notes: Enhancement for four NOV's with the same/similar violations and one agreed order with a denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$60	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$150	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$700
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OTHER FACTORS AS JUSTICE MAY REQUIRE	8.0%	Adjustment	\$56
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance for Violation Nos. 1 and 2.

Final Penalty Amount	\$756
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$756
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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: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$756
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Screening Date 24-Sep-2014

Docket No. 2014-1422-PWS-E

PCW

Respondent Marin Gonzalez dba Lazy Palms Ranch

Policy Revision 4 (April 2014)

Case ID No. 49394

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101281582

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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%

Please Enter Yes or No

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) 40%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for four NOVs with the same/similar violations and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 40%

Screening Date 24-Sep-2014

Docket No. 2014-1422-PWS-E

PCW

Respondent Marin Gonzalez dba Lazy Palms Ranch

Policy Revision 4 (April 2014)

Case ID No. 49394

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101281582

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.122(a)(3)(C) and (f)

Violation Description Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the acute maximum contaminant level ("MCL") for nitrate for the fourth quarter of 2012 through the fourth quarter of 2013 and the second quarter of 2014. Specifically, the Respondent was required to provide public notification for the fourth quarter of 2012 exceedance by March 21, 2013, the first quarter of 2013 exceedance by May 15, 2013, the second quarter of 2013 exceedance by August 15, 2013, the third quarter of 2013 exceedance by November 13, 2013, the fourth quarter of 2013 exceedance by April 2, 2014, and the second quarter of 2014 exceedance by September 1, 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 6 Number of violation days 505

Table for event frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$300

Notes Six single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$454

This violation Final Assessed Penalty (adjusted for limits) \$454

Economic Benefit Worksheet

Respondent Marin Gonzalez dba Lazy Palms Ranch
Case ID No. 49394
Reg. Ent. Reference No. RN101281582
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
<i>No commas or \$</i>							

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	\$100	8-Sep-2014	30-Apr-2015	0.64	\$3	n/a	\$3
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 training/sampling delayed cost includes the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that all public notifications are provided in a timely manner, calculated from the date of the record review 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]	\$30	21-Dec-2012	1-Sep-2014	2.61	\$4	\$30	\$34
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to post public notification (\$5 per notice x six missed notices), calculated for the period when public notifications were required.

Approx. Cost of Compliance

\$130

TOTAL

\$37

Screening Date 24-Sep-2014

Docket No. 2014-1422-PWS-E

PCW

Respondent Marin Gonzalez dba Lazy Palms Ranch

Policy Revision 4 (April 2014)

Case ID No. 49394

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101281582

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 2

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

Violation Description Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to conduct triggered source monitoring for the months of August 2012 and November 2012, the failure to collect secondary constituent samples for the January 1, 2010 through December 31, 2012 monitoring period, and the failure to conduct repeat coliform monitoring for the month of November 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (5.0%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 4 352 Number of violation days

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event. 'single event' is marked with an 'x'.

Violation Base Penalty \$200

Four single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A. 'N/A' is marked with an 'x'.

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$302

This violation Final Assessed Penalty (adjusted for limits) \$302

Economic Benefit Worksheet

Respondent Marin Gonzalez dba Lazy Palms Ranch
Case ID No. 49394
Reg. Ent. Reference No. RN101281582
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
<small>No commas or \$</small>							

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 training/sampling delayed cost of compliance for this violation is included in the Economic Benefit 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]	\$20	1-Sep-2012	23-Feb-2014	2.40	\$2	\$20	\$22
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to post public notification (\$5 per notice x four missed notices), calculated for the period when public notifications were required.

Approx. Cost of Compliance

\$20

TOTAL

\$22

Screening Date 24-Sep-2014

Docket No. 2014-1422-PWS-E

PCW

Respondent Marin Gonzalez dba Lazy Palms Ranch

Policy Revision 4 (April 2014)

Case ID No. 49394

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101281582

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

Violation Number 3

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

Violation Description Failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91080147 for Fiscal Year 2014.

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
				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 NOE/NOV	NOE/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 Marin Gonzalez dba Lazy Palms Ranch
Case ID No. 49394
Reg. Ent. Reference No. RN101281582
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

n/a

Avoided Costs

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

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

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance

\$0

TOTAL

\$0



Compliance History Report

PENDING Compliance History Report for CN604142356, RN101281582, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604142356, Marin Gonzalez dba Lazy Palms Ranch	Classification:	UNCLASSIFIED	Rating:	-----
Regulated Entity:	RN101281582, LAZY PALMS RANCH	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	TWO AND ONE-HALF MILES SOUTHWEST OF LINN, TWO MILES WEST OF UNITED STATES HIGHWAY 281, ONE-HALF MILE NORTH OF FLORAL ROAD NEAR EDINBURG, HIDALGO COUNTY, TEXAS				
TCEQ Region:	REGION 15 - HARLINGEN				
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1080147				

Compliance History Period:	September 01, 2009 to August 31, 2014	Rating Year:	2014	Rating Date:	09/01/2014
Date Compliance History Report Prepared:	September 24, 2014				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	September 24, 2009 to September 24, 2014				

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

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

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

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

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

- 1 Effective Date: 10/03/2013 ADMINORDER 2013-0038-PWS-E (1660 Order-Agreed Order With Denial)
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 - Description: NO32 MR 1Q2012 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the quarterly monitoring period from 01/01/2012 to 03/31/2012.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.106(e)
 - Description: NO32 MR 2Q2012 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the quarterly monitoring period from 04/01/2012 to 06/30/2012.
 - Classification: Moderate
 - Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
 - Description: GWR Triggered Source Monitoring Violation 08/2012 - Failure to collect any triggered source monitoring sample(s) following a coliform found result for 1 source.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

- 1 Date: 11/21/2013 (1145433) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NO3 AMCL PN 3Q2013 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 violation of the maximum contaminant level for nitrate during the 3rd quarter of 2013.

- 2 Date: 03/21/2014 (1195801) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NOV/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 11/2013.

- 3 Date: 04/07/2014 (1195801) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NO3 AMCL PN 4Q2013 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 violation of the maximum contaminant level for nitrate during the fourth quarter of 2013.

- 4 Date: 09/11/2014 (1195801) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NO3 AMCL PN 2Q2014 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 violation of the maximum contaminant level for nitrate during the second quarter of 2014.

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

Pending Compliance History Report for CN604142356, RN101281582, Rating Year 2014 which includes Compliance History (CH) components from September 24, 2009, through September 24, 2014.

Component Appendices

Appendix A

All NOVs Issued During Component Period 9/24/2009 and 9/24/2014

- 1 Date: 12/14/2012 (1145433) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: AUG/2012 GWR Triggered Source 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 triggered source monitoring for the month of 08/2012.
- 2 Date: 02/28/2013 (1050884) CN604142356
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
Description: Failure to provide flow measuring device for each well to measure production yields and for the accumulation of water production data.
- 3 Date: 04/30/2013 (1145433) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NO3 AMCL PN 4Q2012 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 violation of the maximum contaminant level for nitrate during the 4th quarter of 2012.
- 4 Date: 06/21/2013 (1145433) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NOV/2012 GWR Triggered Source 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 triggered source monitoring for the month of 11/2012.
- 5 Date: 08/26/2013 (1145433) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NO3 AMCL 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 violation of the maximum contaminant level for nitrate during the 2nd quarter of 2013.
- 6* Date: 11/21/2013 (1145433) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NO3 AMCL PN 3Q2013 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 violation of the maximum contaminant level for nitrate during the 3rd quarter of 2013.
- 7* Date: 03/21/2014 (1195801) CN604142356
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: NOV/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 11/2013.

8* Date: 04/07/2014 (1195801) CN604142356
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: NO3 AMCL PN 4Q2013 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 violation of the maximum contaminant level for nitrate during the fourth quarter of 2013.

9 Date: 09/11/2014 (1195801) CN604142356
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(a)(3)(C)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: NO3 AMCL PN 2Q2014 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 violation of the maximum contaminant level for nitrate during the second quarter of 2014.

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period September 24, 2009 and September 24, 2014

Item 1	November 29, 2012**	(1045934)
Item 2	February 28, 2013**	(1050884)
Item 3	January 29, 2014**	(1145433)
Item 4	September 15, 2014	(1195801)
Item 5	September 19, 2014	(1195953)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MARIN GONZALEZ DBA
LAZY PALMS RANCH
RN101281582**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-1422-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Marin Gonzalez dba Lazy Palms Ranch (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located two and one-half miles southwest of Linn, two miles west of United States Highway 281, one-half mile north of Floral Road near Edinburg, Hidalgo County, Texas (the "Facility") that has approximately 250 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted from September 8, 2014 through September 19, 2014, TCEQ staff documented that the Respondent did not provide public notification or submit a copy of the public notification to the Executive Director regarding the failure to comply with the acute maximum contaminant level ("MCL") for nitrate and was required to provide public notification for the fourth quarter of 2012 exceedance by March 21, 2013, the first quarter of 2013 exceedance by May 15, 2013, the second quarter of 2013 exceedance by August 15, 2013, the third quarter of 2013 exceedance by November 13, 2013, the fourth quarter of 2013 exceedance by April 2, 2014, and the second quarter of 2014 exceedance by September 1, 2014.
3. During a record review conducted from September 8, 2014 through September 19, 2014, TCEQ staff documented that the Respondent did not provide public notification or submit a copy of the public notification to the Executive Director regarding the failure to conduct triggered source monitoring for the months of August 2012 and November 2012, the failure to collect secondary constituent samples for the January 1, 2010 through December 31, 2012 monitoring period, and the failure to conduct repeat coliform monitoring for the month of November 2013.
4. During a record review conducted on September 24, 2014, TCEQ staff documented that the Respondent did not pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91080147 for Fiscal Year 2014.
5. The Respondent received notice of the violations on September 22, 2014.

II. CONCLUSIONS OF LAW

1. The 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 Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to comply with the acute MCL for nitrate for the fourth quarter of 2012 through the fourth quarter of 2013 and the second quarter of 2014, in violation of 30 TEX. ADMIN. CODE § 290.122(a)(3)(C) and (f).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to conduct triggered source monitoring, the failure to collect

secondary constituent samples, and the failure to conduct repeat coliform monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).

4. As evidenced by Findings of Fact No. 4, the Respondent failed to pay Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91080147, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Seven Hundred Fifty-Six Dollars (\$756) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Eighty-Nine Dollars (\$189) of the administrative penalty. The remaining amount of Five Hundred Sixty-Seven Dollars (\$567) of the administrative penalty shall be payable in three monthly payments of One Hundred Eighty-Nine Dollars (\$189) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Seven Hundred Fifty-Six Dollars (\$756) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Marin Gonzalez dba Lazy Palms Ranch, Docket No. 2014-1422-PWS-E" 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

2. The Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit payment for all outstanding fees, interest, and penalties for TCEQ Account No. 91080147. The payment shall be sent with the notation "Marin Gonzalez dba Lazy Palms Ranch Account No. 91080147" 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
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility with a copy to the Executive Director, including but not limited to providing public notification regarding the failure to comply with the acute MCL for nitrate, the failure to conduct triggered source monitoring, the failure to collect secondary constituent samples, and the failure to conduct repeat coliform monitoring, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

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

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramon Gonzalez
For the Executive Director

5/4/15
Dec 29 2014 M
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Marin Gonzalez dba Lazy Palms Ranch. I am authorized to agree to the attached Agreed Order on behalf of Marin Gonzalez dba Lazy Palms Ranch, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Marin Gonzalez dba Lazy Palms Ranch waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

MS
Signature

December 29 2014
Date

Marin Gonzalez
Name (Printed or typed)
Authorized Representative of
Marin Gonzalez dba Lazy Palms Ranch

Owner
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.