

**Primal Nights Corporation**  
**RN106838543**  
**Docket No. 2015-0193-PWS-E**

**Order Type:**

Default Order

**Media:**

PWS

**Small Business:**

Yes

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

5940 West Interstate Highway 20, Odessa, Ector County

**Type of Operation:**

night club with a public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$279.10 (PHS Acct. No. 90680222; referred for collection)
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** September 11, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,676

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

**Total Due to General Revenue:** \$1,676

**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:** December 29, 2014 - January 9, 2015; January 29, 2015;  
February 13, 2015

**Date(s) of NOV(s):** See Compliance History – 10 related NOVs

**Date(s) of NOE(s):** January 9, 2015

**Primal Nights Corporation**  
**RN106838543**  
**Docket No. 2015-0193-PWS-E**

**Violation Information**

1. Failed to collect routine distribution water samples for coliform analysis and failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A), (c)(2)(B), and (f)].
2. Failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring [30 TEX. ADMIN. CODE § 290.122(c)(2)(A), (c)(2)(B), and (f)].
3. Failed to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 90680222 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Begin complying with the applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six (6) consecutive months of compliant monitoring and reporting;
  - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to customers of the Facility and that copies of the public notifications are submitted to the Executive Director, including providing public notification regarding the failure to collect routine coliform samples; and
  - c. Submit payment for all outstanding fees for TCEQ Financial Administration Account No. 90680222, including any associated penalties and interest.
2. Submit written certification to demonstrate compliance:
  - a. Within 45 days for Technical Requirements Nos. 1.b. and 1.c.; and
  - b. Within 225 days for Technical Requirement No. 1a.

**Litigation Information**

**Date Petition(s) Filed:** July 2, 2015  
**Date Green Card(s) Signed:** July 6, 2015  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Amanda Patel, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Jessica Schildwachter, Enforcement Division, (512) 239-2617  
**TCEQ Regional Contact:** Michael Edmiston, Midland Regional Office, (432) 570-1359  
**Respondent Contact:** Juan A. Meza, Director, Primal Nights Corporation, 5934 West Interstate 20, Odessa, Texas 79763  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	17-Feb-2015	<b>Screening</b>	18-Feb-2015	<b>EPA Due</b>	31-Mar-2015
	<b>PCW</b>	30-Jun-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Primal Nights Corporation
<b>Reg. Ent. Ref. No.</b>	RN106838543
<b>Facility/Site Region</b>	7-Midland
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	50041	<b>No. of Violations</b>	3
<b>Docket No.</b>	2015-0193-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jessica Schildwachter
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	50.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$500
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Notes: Enhancement for ten NOV's with same or similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$180  
 Estimated Cost of Compliance: \$265  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	11.7%	<b>Adjustment</b>	\$176
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture avoided costs of compliance associated with Violation Nos. 1 and 2.

<b>Final Penalty Amount</b>	\$1,676
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,676
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$1,676
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**Screening Date** 18-Feb-2015

**Docket No.** 2015-0193-PWS-E

**PCW**

**Respondent** Primal Nights Corporation

*Policy Revision 4 (April 2014)*

**Case ID No.** 50041

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN106838543

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Jessica Schildwachter

### 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> )	10	50%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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)** 50%

**>> 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 ten NOVs with same or similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 50%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 50%

**Screening Date** 18-Feb-2015 **Docket No.** 2015-0193-PWS-E **PCW**  
**Respondent** Primal Nights Corporation *Policy Revision 4 (April 2014)*  
**Case ID No.** 50041 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN106838543  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Jessica Schildwachter

**Violation Number**

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

**Violation Description**  
 Failed to collect routine distribution water samples for coliform analysis for the months of July, August, September, October, and November 2014 and failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of July, August, and September 2014.

**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="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes** Failure to collect coliform monitoring samples and post public notice could expose persons served by the Facility to contaminants which would exceed levels protective of human health.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	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**

Five monthly events are recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<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** Primal Nights Corporation  
**Case ID No.** 50041  
**Reg. Ent. Reference No.** RN106838543  
**Media Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	\$100	29-Dec-2014	30-Sep-2015	0.75	\$4	n/a	\$4
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 implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the 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]	\$125	1-Jul-2014	30-Nov-2014	1.33	\$8	\$125	\$133
Other (as needed)	\$15	31-Oct-2014	31-Dec-2014	1.08	\$1	\$15	\$16

**Notes for AVOIDED costs**   The avoided cost includes the estimated amount to conduct routine coliform sampling (\$25 x five missed samples), calculated for the months sampling was not conducted. The other avoided cost includes the estimated amount to post public notifications regarding the failure to collect routine coliform samples (\$5 x three missed notices), calculated for the period public notification was required.

Approx. Cost of Compliance   \$240

**TOTAL**   \$153

**Screening Date** 18-Feb-2015  
**Respondent** Primal Nights Corporation  
**Case ID No.** 50041  
**Reg. Ent. Reference No.** RN106838543  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Jessica Schildwachter

**Docket No.** 2015-0193-PWS-E

**PCW**

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

**Violation Number** 2

**Rule Cite(s)**

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

**Violation Description**

Failed to post public notification and provide a copy of the notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of October 2013, November 2013, December 2013, February 2014, and March 2014.

**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 5 150 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$250

Five single events are recommended.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th x)

Notes

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

**Violation Subtotal** \$250

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

**Statutory Limit Test**

**Estimated EB Amount** \$27

**Violation Final Penalty Total** \$419

**This violation Final Assessed Penalty (adjusted for limits)** \$419

## Economic Benefit Worksheet

**Respondent** Primal Nights Corporation  
**Case ID No.** 50041  
**Reg. Ent. Reference No.** RN106838543  
**Media Violation No.** Public Water Supply  
 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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

Delayed cost included in 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]	\$25	31-Jan-2014	30-Jun-2014	1.33	\$2	\$25	\$27
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to post public notices regarding the failure to collect routine coliform samples (\$5 per notice x five missed notices), calculated for the periods public notifications were required.

Approx. Cost of Compliance

\$25

**TOTAL**

\$27

**Screening Date** 18-Feb-2015  
**Respondent** Primal Nights Corporation  
**Case ID No.** 50041  
**Reg. Ent. Reference No.** RN106838543  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Jessica Schildwachter

**Docket No.** 2015-0193-PWS-E

**PCW**

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

**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 type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

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 type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark w th 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** Primal Nights Corporation  
**Case ID No.** 50041  
**Reg. Ent. Reference No.** RN106838543  
**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
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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	Not applicable.						

### 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	Not applicable.						

Approx. Cost of Compliance \$0

**TOTAL** \$0

The TCEQ is committed to accessibility.

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



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604347807, RN106838543, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604347807, Primal Nights Corporation      **Classification:** NOT APPLICABLE      **Rating:** N/A

**Regulated Entity:** RN106838543, PRIMAL NIGHTS      **Classification:** NOT APPLICABLE      **Rating:** N/A

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

**CH Group:** 14 - Other

**Location:** 5940 W IH 20 NEAR ODESSA, ECTOR COUNTY, TEXAS

**TCEQ Region:** REGION 07 - MIDLAND

**ID Number(s):** **WATER LICENSING NON LICENSED** ID NUMBER R07106838543  
**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0680222

**Compliance History Period:** September 01, 2009 to August 31, 2014      **Rating Year:** 2014      **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** January 29, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 29, 2010 to January 29, 2015

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

**Name:** Jessica Schildwachter

**Phone:** (512) 239-2617

## Site and Owner/Operator History:

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

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

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

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      July 15, 2013      (1101192)

### **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: 02/21/2014      (1216900)      CN604347807**  
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 Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 10/2013.
- 2 Date: 03/21/2014      (1216900)      CN604347807**  
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 Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 11/2013.
- 3 Date: 04/24/2014      (1216900)      CN604347807**  
Self Report? NO      Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.122(f)  
Description: DEC/2013 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 12/2013.

- 4 Date: 06/18/2014 (1216900) CN604347807**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: FEB/2014 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 02/2014.
- 5 Date: 07/16/2014 (1216900) CN604347807**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 30 TAC Chapter 290, SubChapter F 290.122(f)  
 Description: MAR/2014 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 03/2014.
- 6 Date: 09/26/2014 (1216900) CN604347807**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine MR Violation 07/2014 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 7 Date: 10/17/2014 (1216900) CN604347807**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine MR Violation 08/2014 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 8 Date: 11/18/2014 (1216900) CN604347807**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)  
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)  
 Description: TCR Routine MR Violation 09/2014 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 9 Date: 12/03/2014 (1216900) CN604347807**  
 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: JUL/2014 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 07/2014.
- 10 Date: 01/07/2015 (1216900) CN604347807**  
 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/2014 TCR Routine MR PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct routine coliform monitoring for the month of 08/2014.

**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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PRIMAL NIGHTS  
CORPORATION;  
RN106838543**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2015-0193-PWS-E**

On \_\_\_\_\_, 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, TEX. WATER CODE ch. 5, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Primal Nights Corporation ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at 5940 West Interstate Highway 20 near Odessa, Ector County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2 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 record reviews conducted December 29, 2014 through January 9, 2015, and on February 13, 2015, TCEQ staff documented that Respondent failed to collect routine distribution water samples for coliform analysis for the months of July 2014, August 2014, September 2014, October 2014, and November 2014 and failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of July 2014, August 2014, and September 2014.
3. During a record review conducted from December 29, 2014 through January 9, 2015, TCEQ staff documented that Respondent failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring during the months of October 2013, November 2013, December 2013, February 2014, and March 2014.
4. During a record review conducted on January 29, 2015, TCEQ staff documented that Respondent failed to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 90680222 for Fiscal Years 2014 and 2015.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Primal Nights Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on July 2, 2015.

6. By letter dated July 2, 2015, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on July 6, 2015, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to collect routine distribution water samples for coliform analysis and failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(A), (c)(2)(B), and (f).
3. As evidenced by Finding of Fact No. 3, Respondent failed to post public notification and provide a copy of the public notification to the Executive Director regarding the failure to conduct routine coliform monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A), (c)(2)(B), and (f).
4. As evidenced by Finding of Fact No. 4, Respondent failed to pay annual public health service fees and/or any associated late fees for TCEQ Financial Administration Account No. 90680222, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
5. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Finding of Fact No. 7, 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.
7. 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.
8. An administrative penalty in the amount of one thousand six hundred seventy-six dollars (\$1,676.00) 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(b).
9. 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 one thousand six hundred seventy-six dollars (\$1,676.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The 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 TCEQ and shall be sent with the notation "Re: Primal Nights Corporation; Docket No. 2015-0193-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Begin complying with the applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six (6) consecutive months of compliant monitoring and reporting;
    - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to customers of the Facility and that copies of the public notifications are submitted to the Executive Director, including providing public notification regarding the failure to collect routine coliform samples, in accordance with TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE § 290.122; and
    - iii. Submit payment for all outstanding fees for TCEQ Financial Administration Account No. 90680222, including any associated penalties and interest, with the notation, "Primal Nights Corporation, Financial Administration Account No. 90680222" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
  - b. Within 45 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provisions Nos. 3.a.ii. and 3.a.iii.
  - c. Within 225 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provision No. 3.a.i.

- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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."

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Order Compliance Team  
Texas Commission on Environmental Quality  
Enforcement Division, MC 149A  
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. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
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 effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

**AFFIDAVIT OF AMANDA PATEL**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

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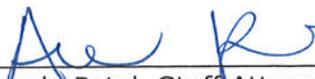
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"My name is Amanda Patel. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Primal Nights Corporation" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 2, 2015.

The EDPRP was mailed to Respondent's last known address on July 2, 2015, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 6, 2015, as evidenced by the signature on the card.

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."



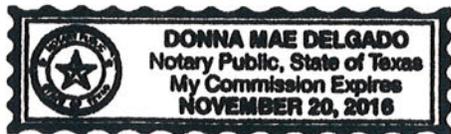
\_\_\_\_\_  
Amanda Patel, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 5<sup>th</sup> day of August, A.D. 2015.



\_\_\_\_\_  
Notary Public, State of Texas



Notary without Bond