

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0175-PWS-E TCEQ ID NO.: RN102280518 CASE NO.: 28327

RESPONDENT NAME: HARI ENTERPRISES, L.L.C.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 21411 Highway 59, El Campo, Wharton County</p> <p>TYPE OF OPERATION: Public water supply system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Water Enforcement Section, MC R-13, (210) 403-4033 TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3500 Respondent: Mr. Hemendra Patel, Member, Hari Enterprises, L.L.C., 21411 Highway 59, El Campo, Texas 77437 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: December 1, 2005</p> <p>Dates of NOEs Relating to this Case: July 22, 2005, August 20, 2005, September 29, 2005, October 26, 2005, November 26, 2005, and December 16, 2005</p> <p>Background Facts: An EDPRP was filed on August 22, 2006. An EDFARP was filed on September 14, 2007. The Respondent received notice of the EDFARP on September 17, 2007 as evidenced by the signature on the return receipt "green card." The Respondent has not filed an answer, requested a hearing or scheduled a settlement conference.</p> <p>Current Compliance Status: In compliance.</p> <p>PWS: Failed to conduct routine monthly bacteriological monitoring of the Facility during the months of June through November 2005, and failed to provide public notification of the failure to conduct routine bacteriological monitoring during the months of June through November 2005 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>	<p>Total Assessed: \$2,835</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,835</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: The Respondent has had at least three repeated enforcement actions (NOVs) over the prior five year period for the same or similar violations.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent began conducting routine monthly bacteriological monitoring of the public water supply at the Facility in February 2006.</p>



DATES	Assigned	06-Feb-2006	Screening	14-Feb-2006	EPA Due	01-May-2006
	PCW	03-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Hari Enterprises, L.L.C.
Reg. Ent. Ref. No.	RN102280518
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	28327	No. of Violations	1
Docket No.	2006-0175-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes

Economic Benefit Subtotal 6

Total EB Amounts	<input type="text" value="\$525"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$500"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	17	85%
	Other written NOVs	2	4%
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 judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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</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	0	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	0	0%
	Participation in a voluntary pollution reduction program	0	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	0	0%

Adjustment Percentage (Subtotal 2) 89%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes The enhancement is due to 17 prior Notices of Violation (NOVs) for the same violations as are in the current enforcement case and two dissimilar prior NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 89%

Screening Date 14-Feb-2006

Docket No. 2006-0175-PWS-E

PCW

Respondent Hari Enterprises, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 28327

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102280518

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number

1

Primary Rule Cite(s)

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

Secondary Rule Cite(s)

Tex. Health & Safety Code § 341.033(d)

Violation Description

Failure to perform routine monthly bacteriological sampling of the public drinking water supply and failure to provide public notification of the failure to conduct monthly bacteriological sampling during the months of June 2005 through November 2005.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor		
Matrix Notes						Percent	

Failure to perform routine bacteriological sampling of the public water supply and failure to provide public notification could result in the public being exposed to significant amounts of bacteriological contamination in the drinking water at levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 6

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,500

Six monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$525

Violation Final Penalty Total \$2,835

This violation Final Assessed Penalty (adjusted for limits) \$2,835

Economic Benefit Worksheet

Respondent Hari Enterprises, L.L.C.
 Case ID No. 28327
 Reg. Ent. Reference No. RN102280518
 Media [Statute] 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: There are no delayed costs associated with this violation.

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Item	Cost	Start Date	End Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	01-Jun-2005	01-Feb-2006	1.0	\$25	\$500	\$525
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The avoided costs include the amount to conduct monthly bacteriological sampling and/or provide public notification, calculated for the months in which no monitoring and notice was performed to the month in which the respondent achieved compliance.

Approx. Cost of Compliance \$500 TOTAL \$525

Compliance History

Customer/Respondent/Owner-Operator:	CN602884082 Hari Enterprises, L.L.C.	Classification: AVERAGE	Rating: 0.25
Regulated Entity:	RN102280518 EL CAMPO TRUCK STOP	Classification: AVERAGE	Site Rating: 0.25
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION REGISTRATION	2410064 74051
Location:	WATER LICENSING 21411 HIGHWAY 59, EL CAMPO, TX, 77437	LICENSE	2410064 Rating Date: 9/1/2005 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 24, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 24, 2001 to February 24, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Epifanio Villarreal</u>	Phone:	<u>210-403-4033</u>

Site Compliance History Components

- | | |
|--|----------------------|
| 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 of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Hari Enterprises LLC |
| 4. If Yes, who was/were the prior owner(s)? | Tashi Enterprise Inc |
| 5. When did the change(s) in ownership occur? | 6/17/2005 |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | |
|------------|----------|
| 12/21/2005 | (451471) |
| 12/01/2005 | (451464) |
| 10/03/2005 | (451405) |
| 06/23/2004 | (288331) |
| 04/23/2003 | (379537) |
| 02/02/2006 | (453057) |
| 11/08/2004 | (379545) |
| 06/04/2003 | (61779) |
| 07/27/2005 | (451401) |
| 05/31/2005 | (450726) |
| 01/25/2006 | (456440) |
| 06/23/2005 | (393967) |
| 06/02/2003 | (379540) |
| 11/01/2004 | (379546) |
| 03/25/2003 | (378745) |
| 08/25/2005 | (451403) |
| 10/31/2005 | (451460) |
| 07/16/2003 | (379542) |
| 06/27/2005 | (451397) |

08/28/2004 (379543)
02/10/2005 (292750)

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

Date: 05/31/2005 (450726)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 04/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to post a PN for not collecting any routine monitoring samples in 04/2005.

Date: 07/16/2003 (379542)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 05/2003.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 05/2003.

Date: 12/21/2005 (451471)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 11/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to post a PN for not collecting any routine monitoring samples in 11/2005.

Date: 08/28/2004 (379543)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: FAILURE TO COLLECT ANY REPEAT SAMPLES FOLLOWING A COLIFORM FOUND RESULT IN 07/2004.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING ANY REPEAT SAMPLES FOLLOWING A COLIFORM FOUND RESULT IN 07/2004.

Date: 06/27/2005 (451397)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 05/2005.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to post a PN for not collecting any routine monitoring samples in 05/2005.

Date: 03/25/2003 (378745)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 01/2003.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 01/2003.

Date: 06/02/2003 (379540)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 04/2003.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 04/2003.

Date: 06/23/2004 (288331)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]
Description: FAILURE TO PROVIDE ACCEPTABLE FINANCIAL ASSURANCE

Date: 06/04/2003 (61779)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(i)
30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(ii)
Description: Failure to possess a DPD free chlorine test kit.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(5)
Description: Failure to maintain the lid of the hypochlorination solution container completely covered and sealed to prevent the entrance of dust, insects, and other contaminants.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Description: Failure to properly maintain the regulated entities by not replacing the leaking blow off valve on the well header.

Date: 11/01/2004 (379546)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: FAILURE TO COLLECT ALL 5 DISTRIBUTION SAMPLES IN 09/2004 FOLLOWING A COLIFORM FOUND MONTH.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING ALL 5 DISTRIBUTION SAMPLES IN 09/2004 FOLLOWING A COLIFORM FOUND MONTH.

Date: 04/23/2003 (379537)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 02/2003.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 02/2003.

Date: 11/08/2004 (379545)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: FAILURE TO COLLECT ALL 5 DISTRIBUTION SAMPLES FOLLOWING A COLIFORM FOUND MONTH IN 08/2004.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING ALL 5 DISTRIBUTION SAMPLES FOLLOWING A COLIFORM FOUND MONTH IN 08/2004.

Date: 07/27/2005 (451401)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect any routine monitoring samples in 06/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to post a PN for not collecting any routine monitoring samples in 06/2005.

Date: 01/25/2006 (456440)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 12/2005 Failure to collect any routine monitoring samples.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: 12/2005 Failure to post a PN for not collecting any routine monitoring samples.

Date: 10/03/2005 (451405)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 5A THC Chapter 341, SubChapter A 341.033(d)
Failure to collect any routine monitoring samples in 08/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to post a PN for not collecting any routine monitoring samples in 08/2005.

Date: 08/26/2004 (379545)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: EXCEEDED A MAXIMUM CONTAMINANT LEVEL VIOLATION IN 08/2004.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)

Description: FAILURE TO POST PN FOR EXCEEDING A MAXIMUM CONTAMINANT LEVEL VIOLATION IN 08/2004.

Date: 12/01/2005 (451464)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 5A THC Chapter 341, SubChapter A 341.033(d)
Failure to collect any routine monitoring samples in 10/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to post a PN for not collecting any routine monitoring samples in 10/2005.

Date: 10/31/2005 (451460)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: 5A THC Chapter 341, SubChapter A 341.033(d)
Failure to collect any routine monitoring samples in 09/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: Failure to post a PN for not collecting any routine monitoring samples in 09/2005.

Date: 08/25/2005 (451403)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
5A THC Chapter 341, SubChapter A 341.033(d)
Description: Failure to collect any routine monitoring samples in 07/2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: Failure to post a PN for not collecting any routine monitoring samples in 07/2005.

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
AGAINST HARI ENTERPRISES,
L.L.C.;
RN102280518

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0175-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 and corrective action of the respondent. The respondent made the subject of this Order is Hari Enterprises, L.L.C. ("Hari Enterprises").

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

FINDINGS OF FACT

1. Hari Enterprises owns and operates a gas station with a public water supply located at 21411 Highway 59 in El Campo, Wharton County, Texas (the "Facility").
2. The Facility has one service connection. The Facility serves at least 25 people per day for at least 60 days per year and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(47).
3. During a record review conducted on December 1, 2005, TCEQ staff documented that Hari Enterprises failed to perform routine monthly bacteriological sampling of the public drinking water supply and failed to provide public notification of the failure to conduct monthly bacteriological sampling during the months of June 2005 through November 2005.
4. Hari Enterprises received notice of the violations on or about July 27, 2005, August 25, 2005, October 3, 2005, October 31, 2005, December 1, 2005 and December 21, 2005.
5. The Executive Director recognizes that Hari Enterprises, in response to this enforcement action, has conducted routine monthly bacteriological monitoring of the Facility since February 2006.

6. 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 Hari Enterprises, L.L.C." (the "EDPRP") in the TCEQ Chief Clerk's office on August 22, 2006.
7. By letter dated August 22, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Hari Enterprises with notice of the EDPRP. According to the return receipt "green card," Hari Enterprises received notice of the EDPRP on August 24, 2006, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Hari Enterprises, L.L.C." (the "EDFARP") in the TCEQ Chief Clerk's office on September 14, 2007.
9. By letter dated September 14, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Hari Enterprises with notice of the EDFARP. According to the return receipt "green card," Hari Enterprises received notice of the EDFARP on September 17, 2007, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Hari Enterprises received notice of the EDPRP and the EDFARP, provided by the Executive Director. Hari Enterprises failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Hari Enterprises is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Hari Enterprises failed to perform routine monthly bacteriological sampling of the public drinking water supply and failed to provide public notification of the failure to conduct monthly bacteriological sampling during the months of June 2005 through November 2005, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i), 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact Nos. 6, 7, 8, and 9, the Executive Director has timely served Hari Enterprises with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 10, Hari Enterprises has failed to file a timely answer to either the EDPRP or the EDFARP, 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 Hari Enterprises and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Hari Enterprises for violations of 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 two thousand eight hundred thirty-five dollars (\$2,835.00) 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).
7. 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. Hari Enterprises is assessed an administrative penalty in the amount of two thousand eight hundred thirty-five dollars (\$2,835.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Hari Enterprises' 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. All checks submitted to pay the penalty imposed by this Order shall be made out to the

“Texas Commission on Environmental Quality”. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation “Re: Hari Enterprises, L.L.C.; Docket No. 2006-0175-PWS-E.” to:

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

2. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Hari Enterprises. Hari Enterprises is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. 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 Hari Enterprises shall be made in writing to the Executive Director. Extensions are not effective until Hari Enterprises 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 Hari Enterprises if the Executive Director determines that Hari Enterprises has not complied with one or more of the terms or conditions in this Order.
6. 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.
7. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARY E. COLEMAN

STATE OF TEXAS §
 §
COUNTY OF TARRANT §

“My name is Mary E. Coleman. 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 Hari Enterprises, L.L.C.” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 22, 2006.

The EDPRP was sent to Hari Enterprises at its last known address on August 22, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Hari Enterprises received notice of the EDPRP on August 24, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Hari Enterprises, L.L.C.” (the “EDFARP”) with the Office of the Chief Clerk on September 14, 2007.

I sent the EDFARP to Hari Enterprises at its last known address on September 14, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Hari Enterprises received notice of the EDFARP on September 17, 2007, as evidenced by the signature on the card.

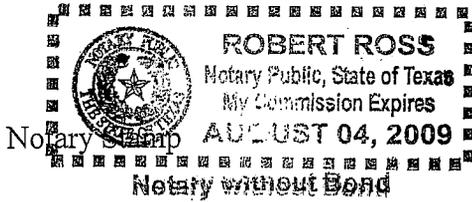
More than 20 days have elapsed since Hari Enterprises received notice of the EDPRP and the EDFARP. Hari Enterprises failed to file an answer to either the EDPRP or EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”



Mary E. Coleman
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mary E. Coleman, 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.

Given under my hand and seal of office this 6th day of May, A.D., 2008.



Notary Signature