# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.:** 2007-1453-MWD-E **TCEQ ID:** RN102078953 **CASE NO.:** 34618

**RESPONDENT NAME:** Roger Allen Lund dba Hickory Ridge Mobile Home Park

| ORDER TYPE: | | |
|---|---|---|
| X 1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| __FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| CASE TYPE: | | |
| __AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | __PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| X WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** Hickory Ridge MHP, located on the north side of Farm-to-Market Road 320, east of the intersection of Farm-to-Market Roads 3324 and 320, approximately two and one half miles west of Palestine, Anderson County

**TYPE OF OPERATION:** Domestic wastewater treatment system

**SMALL BUSINESS:** __X__ **Yes** ____ **No**

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on January 22, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3048; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

**Respondent:** Mr. Roger Allen Lund, Owner, Hickory Ridge Mobile Home Park, 2155 West March Lane, Suite 2C, Stockton, California 95207

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br>___ Complaint<br>_X_ Routine<br>___ Enforcement Follow-up<br>___ Records Review<br><br>**Date(s) of Complaints Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** July 24, 2007<br><br>**Date of NOV/NOE Relating to this Case:** August 30, 2007 (NOE)<br><br>**Background Facts:** This was a routine investigation.<br><br>**WATER**<br><br>Failed to maintain authorization to discharge wastewater. Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013829001 expired on February 1, 2007 and the Facility continues to operate [30 TEX. ADMIN. CODE §§ 305.125(2) and 305.65(a) and TEX. WATER CODE § 26.121(a)]. | **Total Assessed:** $12,000<br><br>**Total Deferred:** $2,400<br>_X_ Expedited Settlement<br><br>__Financial Inability to Pay<br><br>**SEP Conditional Offset:** $0<br><br>**Total Paid (Due) to General Revenue:** $290 (remaining $9,310 due in 35 monthly payments of $266 each)<br><br>**Site Compliance History Classification**<br>___ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** ___ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognizes that the Respondent submitted an application for a permit and as of September 5, 2007 that application was administratively complete.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to:<br><br>a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0013829001;<br><br>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and<br><br>c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance. |

Additional ID No(s).: WQ0013829001

# Penalty Calculation Worksheet (PCW)

TCEQ

*Policy Revision 2 (September 2002)* — *PCW Revision November 17, 2006*

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 4-Sep-2007 | | | | |
| PCW | 14-Sep-2007 | Screening | 12-Sep-2007 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Roger Allen Lund dba Hickory Ridge Mobile Home Park | | |
| Reg. Ent. Ref. No. | RN102078953 | | |
| Facility/Site Region | 5-Tyler | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 34618 | No. of Violations | 1 |
| Docket No. | 2007-1453-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Deana Holland |
| Multi-Media | | EC's Team | EnforcementTeam 1 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1* $8,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** — 50% Enhancement — *Subtotals 2, 3, & 7* $4,000

Notes: The Respondent has one NOV for unrelated violations, a 1660 Order, and 14 months of self reported effluent data violations within the last five years.

**Culpability** — No — 0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** — 0% Reduction — *Subtotal 5* $0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---|---|---|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $375 |
| Approx. Cost of Compliance | $5,000 |

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $12,000

**OTHER FACTORS AS JUSTICE MAY REQUIRE** — *Adjustment* $0

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

Notes:

*Final Penalty Amount* $12,000

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $12,000

**DEFERRAL** — 20% Reduction — *Adjustment* -$2,400

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** $9,600

**Screening Date** 12-Sep-2007 **Docket No.** 2007-1453-MWD-E **PCW**

**Respondent** Roger Allen Lund dba Hickory Ridge Mobile Home Park *Policy Revision 2 (September 2002)*

**Case ID No.** 34618 *PCW Revision November 17, 2006*

**Reg. Ent. Reference No.** RN102078953

**Media [Statute]** Water Quality

**Enf. Coordinator** Deana Holland

## 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 (*number of NOVs meeting criteria*) | 0 | 0% |
| | Other written NOVs | 15 | 30% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 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 (*number of judgements or consent decrees meeting criteria*) | 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 (*number of counts*) | 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 *(number of audits for which notices were submitted)* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*) | 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)*** 50%

>> **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 Respondent has one NOV for unrelated violations, a 1660 Order, and 14 months of self reported effluent data violations within the last five years.

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

**Screening Date** 12-Sep-2007 **Docket No.** 2007-1453-MWD-E **PCW**

**Respondent** Roger Allen Lund dba Hickory Ridge Mobile Home Park *Policy Revision 2 (September 2002)*

**Case ID No.** 34618 *PCW Revision November 17, 2006*

**Reg. Ent. Reference No.** RN102078953

**Media [Statute]** Water Quality

**Enf. Coordinator** Deana Holland

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(2) and 305.65(a) and Tex. Water Code § 26.121(a)

**Violation Description** Failed to maintain authorization to discharge wastewater. Specifically, the existing TPDES Permit No. WQ0013829001 expired on February 1, 2007 and the facility continues to operate.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 10%

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

**Adjustment** $9,000

$1,000

## Violation Events

Number of Violation Events 8 | 223 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $8,000

Eight monthly events are recommended from the permit expiration date of February 1, 2007 to the screening date of September 12, 2007.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $375

## Statutory Limit Test

**Violation Final Penalty Total** $12,000

**This violation Final Assessed Penalty (adjusted for limits)** $12,000

# Economic Benefit Worksheet

**Respondent** Roger Allen Lund dba Hickory Ridge Mobile Home Park
**Case ID No.** 34618
**Reg. Ent. Reference No.** RN102078953
**Media** Water Quality
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | 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 | $5,000 | 1-Feb-2007 | 1-Aug-2008 | 1.5 | $375 | n/a | $375 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |

Notes for DELAYED costs: The estimated costs of obtaining a permit. Date required is the date the previous permit expired and the final date is the projected date of compliance.

| Avoided Costs | | | | | | | |
|---|---|---|---|---|---|---|---|
| ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | | |
| 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] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |

Notes for AVOIDED costs:

Approx. Cost of Compliance: $5,000

TOTAL: $375

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN603074568 | LUND, ROGER ALLEN | Classification: AVERAGE | Rating: 6.64 |
| Regulated Entity: | RN102078953 | HICKORY RIDGE MHP | Classification: AVERAGE | Site Rating: 6.64 |

| | | | |
|---|---|---|---|
| ID Number(s): | WASTEWATER | PERMIT | WQ0013829001 |
| | WASTEWATER | PERMIT | TX0124877 |
| | WASTEWATER | PERMIT | WQ0014801001 |
| | PUBLIC WATER SYSTEM/SUPPLY | REGISTRATION | 0010055 |

Location: located on the north side of Farm-to-Market Road 320, east of the intersection of Farm-to-Market roads 3324 and 320, approximately two and one half miles west of Palestine in Anderson County, Texas

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: September 09, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 09, 2002 to September 09, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Deana Holland Phone: 239-2504

## 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? Roger Allen Lund
   Saia Donald V
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

**Components (Multimedia) for the Site :**

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/05/2004 ADMINORDER 2002-0610-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121

Rqmt Prov: pg 2 prov 1 PERMIT
Description: Failed to comply with permitted daily average loading, daily average, and single grab effluent limits for Total Suspended Solids (TSS) and 5-Day Biochemical Oxygen Demand (BOD5).

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: pg 4 req 7.c PERMIT
Description: Failed to report deviations of more than 40% above permitted effluent limits of BOD5 and TSS within five (5) working days of becoming aware of the noncompliance.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.1

Rqmt Prov: pg 20 sec III.G PERMIT
Description: Failed to submit the Annual Sludge Report for 2000 to the TCEQ region 5 Tyler Office and to the TCEQ Water Quality Compliance Monitoring Team in Austin by September 1, 2001.

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.)

| | | |
|---|---|---|
| 1 | 09/20/2004 | (368128) |
| 2 | 10/18/2004 | (368129) |
| 3 | 11/15/2004 | (390715) |
| 4 | 12/20/2004 | (390716) |
| 5 | 01/18/2005 | (390717) |
| 6 | 02/07/2005 | (390713) |
| 7 | 03/18/2005 | (390714) |
| 8 | 04/11/2005 | (428136) |
| 9 | 05/11/2005 | (428137) |
| 10 | 06/16/2005 | (428138) |
| 11 | 07/11/2005 | (397626) |
| 12 | 07/20/2005 | (448107) |
| 13 | 09/01/2005 | (448108) |
| 14 | 09/16/2005 | (448109) |
| 15 | 10/17/2005 | (493660) |
| 16 | 10/20/2005 | (431901) |
| 17 | 11/18/2005 | (493661) |
| 18 | 12/15/2005 | (493662) |
| 19 | 01/09/2006 | (493663) |
| 20 | 02/21/2006 | (493658) |
| 21 | 03/17/2006 | (493659) |
| 22 | 04/14/2006 | (506900) |
| 23 | 05/02/2006 | (456856) |
| 24 | 05/18/2006 | (506901) |
| 25 | 06/19/2006 | (506902) |
| 26 | 07/13/2006 | (529051) |
| 27 | 08/21/2006 | (529052) |
| 28 | 09/18/2006 | (529053) |
| 29 | 08/25/2007 | (573391) |

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

Date: 08/31/2004 (368128)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (368129)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (390716)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (390717)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (390713)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (390714)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2005 (428136)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2005 (428137)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2005 (428138)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 07/08/2005 (397626)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)

Description: Failure to protect potable water from contamination.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain BOD and TSS within permitted limits.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to maintain BOD and TSS within permitted limits.

Date: 10/31/2005 (493661)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (493662)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (493658)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (506900)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (506901)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

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** | § | **BEFORE THE** |
| **ENFORCEMENT ACTION** | § | |
| **CONCERNING** | § | |
| **ROGER ALLEN LUND DBA** | § | **TEXAS COMMISSION ON** |
| **HICKORY RIDGE MOBILE HOME** | § | |
| **PARK** | § | |
| **RN102078953** | § | **ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2007-1453-MWD-E**

## I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Roger Allen Lund dba Hickory Ridge Mobile Home Park ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system located on the north side of Farm-to-Market Road 320, east of the intersection of Farm-to-Market Roads 3324 and 320, approximately two and one half miles west of Palestine in Anderson County, Texas (the "Facility").

2. The Respondent has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Dollars ($12,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Ninety Dollars ($290) of the administrative penalty and Two Thousand Four Hundred Dollars ($2,400) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

   The remaining amount of Nine Thousand Three Hundred Ten Dollars ($9,310) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Sixty-Six Dollars ($266) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each 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.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the Respondent submitted an application for a permit and as of September 5, 2007 that application was administratively complete.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. 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.

12. 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.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to maintain authorization to discharge wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.125(2) and 305.65(a) and TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on July 24, 2007.

Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013829001 expired on February 1, 2007 and the Facility continues to operate.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Roger Allen Lund dba Hickory Ridge Mobile Home Park, Docket No. 2007-1453-MWD-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. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0013829001.

   b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing;

   c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 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:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

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 operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. 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.

6. 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.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 2/14/2008
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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.

_____ 11/13/07
Signature Date

ROGER A. LUND MEMBER
Name (Printed or typed) Title
Authorized Representative of
Roger Allen Lund dba Hickory Ridge Mobile Home Park

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