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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1267-PWS-E TCEQ ID: RN101239515 CASE NO.: 34392**  
**RESPONDENT NAME: A Young Adventure Child Care Learning Center Inc.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> A Young Adventure Day Care Center, 5111 Powerline Road, Richmond, Fort Bend County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 4, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Libby Hogue, Enforcement Division, Enforcement Team 3, (512) 239-1165, MC 149; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Alton Pesek, President, A Young Adventure Child Care Learning Center Inc., 5111 Powerline Road, Richmond, Texas 77469-8858  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 1, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 11, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine records review. Three violations were documented.</p> <p><b>WATER</b></p> <p>1) Failure to collect any routine water samples for bacteriological analysis in July 2006, and failed to post a public notice of failure to conduct the sampling [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i), 290.122(c)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p> <p>2) Failure to collect all five distribution samples in February, March, and April 2007 following coliform found months, and failed to post the public notices of the failure to collect the five distribution samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F), 290.122(c)(2)(B) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p> <p>3) Failure to collect all the repeat samples in January, February, and March 2007, and failed to post the public notices of the failure to collect the repeat samples [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii), 290.122(c)(2)(B), and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p>	<p><b>Total Assessed:</b> \$2,257</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,257</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Three repeated enforcement actions over the prior five year period for same or similar violations.</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin collecting monthly samples at a frequency based on population served by the system, as required by 30 TEX. ADMIN. CODE § 290.109;</p> <p>b. Immediately upon the effective date of this Agreed Order, begin posting public notices indicating when no sampling is conducted, as required by 30 TEX. ADMIN. CODE § 290.122; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): 0790191



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Aug-2007	<b>Screening</b>	9-Aug-2007	<b>EPA Due</b>	
	<b>PCW</b>	13-Aug-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	A Young Adventure Child Care Learning Center Inc.
<b>Reg. Ent. Ref. No.</b>	RN101239515
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34392	<b>No. of Violations</b>	3
<b>Docket No.</b>	2007-1267-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Libby Hogue
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 3
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>
			\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,750**

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

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

**Compliance History** **29%** Enhancement **Subtotals 2, 3, & 7** **\$507**

**Notes**  
A 29% enhancement is recommended for having five NOV's for same or similar violations, and two NOV's for non-similar violations within the past 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

**Total EB Amounts** **\$184** **0% Enhancement\*** **Subtotal 6** **\$0**  
**Approx. Cost of Compliance** **\$100** **\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,257**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0%** **Adjustment** **\$0**

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

**Notes**

**Final Penalty Amount** **\$2,257**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,257**

**DEFERRAL** **0%** Reduction **Adjustment** **\$0**

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

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$2,257**

Screening Date 9-Aug-2007

Docket No. 2007-1267-PWS-E

PCW

Respondent: A Young Adventure Child Care Learning Center Inc.

Policy Revision 2 (September 2002)

Case ID No. 34392

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101239515

Media [Statute] Public Water Supply

Enf. Coordinator Libby Hogue

### 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)	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (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%
<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)** 29%

>> 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**

A 29% enhancement is recommended for having five NOVs for same or similar violations, and two NOVs for non-similar violations within the past five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 29%

Screening Date 9-Aug-2007

Docket No. 2007-1267-PWS-E

PCW

Respondent A Young Adventure Child Care Learning Center Inc.

Policy Revision 2 (September 2002)

Case ID No. 34392

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101239515

Media [Statute] Public Water Supply

Enf. Coordinator Libby Hogue

Violation Number 1

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

Violation Description Failed to collect any routine water samples for bacteriological analysis in July 2006, and failed to post a public notice of failure to conduct the sampling, as documented during a record review investigation conducted on May 1, 2007.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to sample may allow undetected contaminants that exceed levels that are protective of human health to be distributed to the public for human consumption.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 31

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$250

One monthly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$184

Violation Final Penalty Total \$322

This violation Final Assessed Penalty (adjusted for limits) \$322

## Economic Benefit Worksheet

**Respondent:** A Young Adventure Child Care Learning Center Inc.

**Case ID No.:** 34392

**Reg. Ent. Reference No.:** RN101239515

**Media:** Public Water Supply

**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

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

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	31-Jul-2006	30-Apr-2008	1.8	\$9	\$175	\$184
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

Estimated cost to conduct all bacteriological sampling and to post public notice of the violation. Date required is the first month sampling was not performed, the final date is the date the Respondent is anticipated to achieve compliance.

Approx. Cost of Compliance

\$100

TOTAL

\$184

Screening Date 9-Aug-2007

Docket No. 2007-1267-PWS-E

PCW

Respondent A Young Adventure Child Care Learning Center Inc.

Policy Revision 2 (September 2002)

Case ID No. 34392

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101239515

Media [Statute] Public Water Supply

Enf. Coordinator Libby Hogue

Violation Number 2

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

Violation Description

Failed to collect all five distribution samples in February, March, and April 2007 following coliform found months, and failed to post the public notices of the failure to collect the five distribution samples, as documented during a record review investigation conducted on May 1, 2007.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to sample may allow undetected contaminants that exceed levels that are protective of human health to be distributed to the public for human consumption.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

89 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$750

Three monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$967

This violation Final Assessed Penalty (adjusted for limits) \$967

## Economic Benefit Worksheet

**Respondent:** A Young Adventure Child Care Learning Center Inc.

**Case ID No.:** 34392

**Reg. Ent. Reference No.:** RN101239515

**Media:** Public Water Supply

**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$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

### 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

See Violation No. 1.

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 9-Aug-2007

Docket No. 2007-1267-PWS-E

PCW

Respondent A Young Adventure Child Care Learning Center Inc.

Policy Revision 2 (September 2002)

Case ID No. 34392

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN101239515

Media [Statute] Public Water Supply

Enf. Coordinator Libby Hogue

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii), 290.122(c)(2)(B), and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect all the repeat samples in January, February, and March 2007, and failed to post the public notices of the failure to collect the repeat samples, as documented during a record review investigation conducted on May 1, 2007.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to sample may allow undetected contaminants that exceed levels that are protective of human health or environmental receptors being distributed to the public for human consumption.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

90 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$750

Three monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$967

This violation Final Assessed Penalty (adjusted for limits) \$967

## Economic Benefit Worksheet

**Respondent:** A Young Adventure Child Care Learning Center Inc.

**Case ID No.:** 34392

**Reg. Ent. Reference No.:** RN101239515

**Media:** Public Water Supply

**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$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

### 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

See Violation No. 1.

Approx. Cost of Compliance

\$0

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN602767113 A Young Adventure Child Care Learning Center Inc. Classification: Rating:

Regulated Entity: RN101239515 A YOUNG ADVENTURE DAY CARE CENTER Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0790191  
WATER LICENSING LICENSE 0790191

Location: 5111 POWERLINE RD, RICHMOND, TX, 77469

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 07, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 06, 2002 to August 06, 2007

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

Name: Libby Hogue Phone: 512-239-1165

## 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? No
3. If Yes, who is the current owner? N/A
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.  
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.)
 

1	12/27/2004	(269899)
2	08/25/2006	(567896)
3	11/15/2006	(517464)
4	02/21/2007	(569498)
5	03/29/2007	(569499)
6	04/25/2007	(569759)
7	05/25/2007	(569766)
8	07/31/2007	(570296)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/28/2004	(269899)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)				
Description:	Failure to obtain a sanitary control easement or exception for the well.				
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)				
Description:	Failure to install a raw water sampling tap on the well discharge line.				

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(v)		
Description:	Failure to encase electrical wiring in conduit.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.110(d)(3)(A)		
Description:	Failure to obtain a DPD chlorine test kit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)		
Description:	Failure to maintain a chlorine residual log.		
Date	05/25/2006	(569766)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)		
Description:	04/2007 - Failure to collect all of the 5 distribution samples in 04/2007 following a coliform found month.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)		
Description:	04/2007 - Failure to post PN for not collecting all of the 5 distribution samples in 04/2007 following a coliform found month.		
Date	08/25/2006	(567896)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)		
Description:	07/2006- Failure to collect any routine monitoring sample(s) for 07/2006.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)		
Description:	07/2006- Failure to post PN for not collecting any routine monitoring sample(s) in 07/2006.		
Date	10/27/2006	(517464)	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to obtain a sanitary control easement or exception for the well.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)		
Description:	Failure to install a raw water sampling tap on the well discharge line.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(v)		
Description:	Failure to encase electrical wiring in conduit.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.110(d)(3)(A)		
Description:	Failure to obtain a DPD chlorine test kit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)		
Description:	Failure to maintain a chlorine residual log.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121[G]		
Description:	Failure by the regulated entity to develop and maintain an up to date system monitoring plan.		

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)  
Description: Failure to install a flow meter the well pump discharge line to provide water usage records and to assist in more efficient system operation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)  
Description: Failure by the regulated entity to be under the direct supervision of a licensed water works operator at all times. A valid license issued under the direction of the Texas Commission On Environmental Quality is required.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)  
Description: Failure by a community or non-transient non-community public water system that uses purchased water or groundwater sources only to submit a Disinfectant Level Quarterly Operating Report each quarter.

Date 02/21/2007 (569498)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 01/2007 - Failure to post PN for not collecting all of the repeat samples in 01/2007 following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: 01/2007 - Failure to collect all the repeat samples in 01/2007 following a coliform found result.

Date 03/29/2007 (569499)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: 02/2007 - Failure to collect any repeat samples in 02/2007 following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 02/2007 - Failure to post PN for not collecting any repeat samples in 02/2007 following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: 02/2007 - Failure to collect all of the 5 distribution samples in 02/2007, following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 02/2007 - Failure to post PN for not collecting all of the 5 distribution samples in 02/2007 following a coliform found month.

Date 04/25/2007 (569759)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: 03/2007 - Failure to collect all the repeat samples in 03/2007 following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 03/2007 - Failure to post PN for not collecting all of the repeat samples in 03/2007 following a coliform found result.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: 03/2007 - Failure to collect all of the 5 distribution samples in 03/2007 following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: 03/2007 - Failure to post PN for not collecting all of the 5 distribution samples in 03/2007 following a coliform found month.

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  
A YOUNG ADVENTURE CHILD CARE  
LEARNING CENTER INC.  
RN101239515**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1267-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding A Young Adventure Child Care Learning Center Inc. ("A Young Adventure Child Care") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and A Young Adventure Child Care presented this agreement to the Commission.

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

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



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

### **I. FINDINGS OF FACT**

1. A Young Adventure Child Care owns and operates a public water supply at 5111 Powerline Road in Richmond, Fort Bend County, Texas (the "Facility") that has one service connection and serves at least 80 people per day for at least 60 days per year.
2. During a record review on May 1, 2007, TCEQ staff documented that A Young Adventure Child Care did not collect and submit routine monthly monitoring samples for microbiological analysis for July 2006, and failed to post a public notice of the failure to conduct sampling.
3. During a record review on May 1, 2007, TCEQ staff documented that A Young Adventure Child Care did not collect all five distribution samples in February, March, and April 2007 following coliform found months, and failed to post public notices of the failure to collect the five distribution samples.
4. During a record review on May 1, 2007, TCEQ staff documented that A Young Adventure Child Care did not collect all the repeat samples in January, February, and March 2007, and failed to post public notices of the failure to collect the repeat samples.
5. A Young Adventure Child Care received notice of the violations on or about July 16, 2007.

### **II. CONCLUSIONS OF LAW**

1. A Young Adventure Child Care 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 Findings of Fact No. 2, A Young Adventure Child Care failed to collect any routine water samples for bacteriological analysis, and failed to post a public notice of the failure to conduct the sampling, 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 Findings of Fact No. 3, A Young Adventure Child Care failed to collect all five distribution samples following coliform found months, and failed to post the public notices of the failure to collect the five distribution samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F), 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. As evidenced by Findings of Fact No. 4, A Young Adventure Child Care failed to collect all the repeat samples, and failed to post the public notices of the failure to collect the repeat samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii), 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).



5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against A Young Adventure Child Care for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Two Thousand Two Hundred Fifty-Seven Dollars (\$2,257) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). A Young Adventure Child Care has paid the Two Thousand Two Hundred Fifty-Seven Dollar (\$2,257) administrative penalty.

### III. ORDERING PROVISIONS

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

1. A Young Adventure Child Care is assessed an administrative penalty in the amount of Two Thousand Two Hundred Fifty-Seven Dollars (\$2,257) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and A Young Adventure Child Care's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: A Young Adventure Child Care Learning Center Inc., Docket No. 2007-1267-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. It is further ordered that A Young Adventure Child Care shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin collecting monthly samples at a frequency based on population served by the system, as required by 30 TEX. ADMIN. CODE § 290.109;
  - b. Immediately upon the effective date of this Agreed Order, begin posting public notices indicating when no sampling is conducted, as required by 30 TEX. ADMIN. CODE § 290.122; and



- c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 2.a. and 2.b. as described below and include detailed supporting documentation to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon A Young Adventure Child Care. A Young Adventure Child Care is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by A Young Adventure Child Care shall be made in writing to the Executive Director. Extensions are not effective until A Young Adventure Child Care 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 A Young Adventure Child Care if the Executive Director determines that A Young Adventure Child Care has not complied with one or more of the terms or conditions in this Agreed Order.



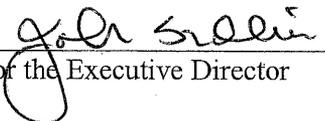
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against A Young Adventure Child Care in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

3/24/2008  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of A Young Adventure Child Care Learning Center Inc. I am authorized to agree to the attached Agreed Order on behalf of A Young Adventure Child Care Learning Center Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, A Young Adventure Child Care Learning Center Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

  
\_\_\_\_\_  
Signature

10/17/07  
\_\_\_\_\_  
Date

Alton Pesek  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
A Young Adventure Child Care Learning Center Inc.

President, A Young Adventure  
Child Care Learning Center, Inc.  
\_\_\_\_\_  
Title

**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.

