

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1824-PWS-E **TCEQ ID:** RN101227361 **CASE NO.:** 34935

RESPONDENT NAME: Mae Dell Tondre dba Tondre Water System

ORDER TYPE:		
<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	
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: Tondre Water System, 9302 Farm-to-Market Road 1489, Simonton, Fort Bend County</p> <p>TYPE OF OPERATION: Public water supply</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 March 10, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Ms. Mae Dell Tondre, Owner, Tondre Water System, 1804 George Street, Rosenberg, Texas 77471 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 1, 2006</p> <p>Date of NOV/NOE Relating to this Case: October 24, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Exceeded the maximum contaminant level ("MCL") for total coliform in July, September and October 2006 [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a)].</p> <p>2) Failed to collect all required repeat samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide public notice of the failure to collect all required repeat samples in October 2006 [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(b)(2)(A)].</p> <p>3) Failed to collect at least five routine bacteriological samples during the month following a total coliform-positive result and failed to provide public notice of the failure to conduct bacteriological sampling in November 2006 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(b)(2)(A)].</p>	<p>Total Assessed: \$1,725</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,725</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has five repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent:</p> <p>a. Came into compliance with collecting required monthly samples in December 2006 and returned to compliance with the total coliform rule at the Facility as of May 2007; and</p> <p>b. Sold the Facility on August 10, 2007.</p>

Additional ID No(s): PWS ID No. 0790070



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

DATES	Assigned	29-Oct-2007	Screening	7-Nov-2007	EPA Due	31-May-2007
	PCW	7-Nov-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mae Dell Tondre dba Tondre Water System
Reg. Ent. Ref. No.	RN101227361
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34935	No. of Violations	3
Docket No.	2007-1824-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Andrea Linson-Mgbeodur
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	27% Enhancement	Subtotals 2, 3, & 7	\$337
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Notes
Enhancement is due to five prior Notices of Violation ("NOV") containing the same or similar violations as the current enforcement action and one dissimilar NOV.

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

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$312
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes
The Respondent returned to compliance as of May 2007.

Total EB Amounts	\$273	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$450	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,275
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OTHER FACTORS AS JUSTICE MAY REQUIRE	35%	Adjustment	\$450
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
Enhancement is recommended for recovery of avoided costs.

Final Penalty Amount	\$1,725
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,725
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$1,725
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Screening Date 7-Nov-2007	Docket No. 2007-1824-PWS-E	PCW
Respondent Mae Dell Tondre dba Tondre Water System	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34935	<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN101227361		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		

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>	5	25%
	Other written NOVs	1	2%
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 <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement is due to five prior Notices of Violation ("NOV") containing the same or similar violations as the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 7-Nov-2007	Docket No. 2007-1824-PWS-E	PCW
Respondent Mae Dell Tondre dba Tondre Water System	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34935	<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN101227361		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.031(a)	
Violation Description	Exceeded the Maximum Contaminant Level (MCL) for total coliform in July, September and October 2006 and failed to provide public notice of the total coliform exceedance.	
Base Penalty		\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual		x		
	Potential				
				Percent <input style="width:50px;" type="text" value="25%"/>	

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
				Percent <input style="width:50px;" type="text" value="0%"/>	
Matrix Notes	The presence of coliform bacteria is an indication that the water supply is contaminated with significant amounts of total coliform that do not exceed levels that are protective of human health.				
Adjustment				\$750	

Violation Events

Number of Violation Events	<input style="width:40px;" type="text" value="3"/>		<input style="width:40px;" type="text" value="92"/>	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty <input style="width:100px;" type="text" value="\$750"/>
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
Three monthly events are recommended.				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width:150px;" type="text" value="\$110"/>	Violation Final Penalty Total <input style="width:100px;" type="text" value="\$1,035"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width:150px;" type="text" value="\$1,035"/>	

Economic Benefit Worksheet

Respondent Mae Dell Tondre dba Tondre Water System
Case ID No. 34935
Reg. Ent. Reference No. RN101227361
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	\$50	1-Jul-2006	31-Jul-2006	0.1	\$0	\$4	\$4
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)	\$100	1-Sep-2006	31-Oct-2006	1.1	\$5	\$100	\$105

Notes for AVOIDED costs

The avoided costs include additional oversight to properly treat the water to prevent the total coliform exceedance and the amount to provide public notice of the exceedance. The date required is the date of the first exceedance. The final date is the last month the sample tested positive.

Approx. Cost of Compliance

\$150

TOTAL

\$110

Screening Date 7-Nov-2007	Docket No. 2007-1824-PWS-E	PCW
Respondent Mae Dell Tondre dba Tondre Water System		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34935		<i>PCW Revision September 19, 2007</i>
Reg. Ent. Reference No. RN101227361		
Media [Statute] Public Water Supply		
Enf. Coordinator Andrea Linson-Mgbeoduru		
Violation Number	<input type="text" value="2"/>	
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(b)(2)(A)"/>	
Violation Description	<input type="text" value="Failed to collect all required repeat samples within 24 hours of being notified of a total coliform-positive result on a routine sample collected in October 2006 and failed to provide public notice of the failure to collect the repeat samples."/>	
Base Penalty		<input type="text" value="\$1,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
<input type="text"/>					
					Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount <input type="text" value="\$13"/>	Violation Final Penalty Total <input type="text" value="\$345"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$345"/>	

Economic Benefit Worksheet

Respondent Mae Dell Tondre dba Tondre Water System
Case ID No. 34935
Reg. Ent. Reference No. RN101227361
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

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	\$150	1-Oct-2006	31-Oct-2006	0.1	\$1	\$12	\$13
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

The avoided costs include the amount to collect four repeat samples and provide public notice for the month when the violation occurred.

Approx. Cost of Compliance \$150

TOTAL \$13

Screening Date	7-Nov-2007	Docket No.	2007-1824-PWS-E	PCW
Respondent	Mae Dell Tondre dba Tondre Water System	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	34935	<i>PCW Revision September 19, 2007</i>		
Reg. Ent. Reference No.	RN101227361			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson-Mgbeoduru			

Violation Number

Rule Cite(s)

Violation Description
 Failed to collect at least five routine bacteriological samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to conduct bacteriological sampling for the month of November 2006.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes
 Failure to properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Mae Dell Tondre dba Tondre Water System
Case ID No. 34935
Reg. Ent. Reference No. RN101227361
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
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]	\$150	1-Nov-2006	30-Nov-2006	0.0	\$0	\$150	\$150
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform bacteriological monitoring and provide public notice, calculated for the month when the violation occurred.

Approx. Cost of Compliance

\$150

TOTAL

\$150

Compliance History

Customer/Respondent/Owner-Operator:	CN603155995 TONDRE, MAE DELL	Classification:	Rating:
Regulated Entity:	RN101227361 TONDRE WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	0790070 0790070
Location:	9302 FARM-TO-MARKET ROAD 1489, SIMONTON, FORT BEND COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	October 29, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 29, 2002 to October 29, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Andrea Linson-Mgbeoduru	Phone:	512-239-1482

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? | <u>TONDRE, MAE DELL</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Estate of Alfred A Tondre</u> |
| 5. When did the change(s) in ownership occur? | <u>01/19/2007</u> |

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 | 04/04/2003 | (31292) | |
| 2 | 11/21/2005 | (436531) | |
| 3 | 07/28/2006 | (554594) | |
| 4 | 09/21/2006 | (554862) | |
| 5 | 11/01/2006 | (554872) | |
| 6 | 12/21/2006 | (555770) | |
| 7 | 10/26/2007 | (599000) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 11/21/2005 | (436531) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.121(a) | | |
| Description: | Failure to make available a sampling tap for collection of chemical samples at each entry point to the distribution system so that samples can be collected at the required monitoring locations as set forth in the monitoring plan. | | |
| Date: | 07/28/2006 | (554594) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(3) | | |
| Description: | Exceeded a maximum contaminant level violation in 07/2006. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A) | | |
| Description: | Failure to post a PN for exceeding a maximum contaminant level (MCL) violation in 07/2006. | | |
| Date: | 09/21/2006 | (554862) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(3) | | |

Description: 09/2006 - Exceeded a maximum contaminant level (MCL) violation in 09/2006.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
Description: 09/2006 - Failure to post a PN for exceeding a maximum contaminant level (MCL) violation in 09/2006.

Date: 10/06/2006 (554872)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: 10/2006 - Exceeded a maximum contaminant level (MCL) violation in 10/2006.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: 10/2006 - Failure to post a PN for exceeding a maximum contaminant level (MCL) violation in 10/2006.

Date: 11/21/2006 (554872)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: 10/2006 - Failure to collect all the repeat samples in 10/2006 following a coliform found result.

Date: 12/21/2006 (555770)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: 11/2006 - Failure to collect all of the 5 distribution samples in 11/2006 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
MAE DELL TONDRE DBA TONDRE
WATER SYSTEM
RN101227361**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1824-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 Mae Dell Tondre dba Tondre Water System (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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, the Respondent agrees to waive all notice and procedural rights.

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 9302 Farm-to-Market Road 1489 in Simonton, Fort Bend County, Texas (the “Facility”) that has approximately 15 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review on December 1, 2006, TCEQ staff documented that the Respondent exceeded the Maximum Contaminant Level ("MCL") for total coliform in July, September, and October 2006 and did not provide public notice of the total coliform exceedance.
3. During a record review on December 1, 2006, TCEQ staff documented that the Respondent did not collect all required repeat samples within 24 hours of being notified of a total coliform positive result on a routine sample collected in October 2006 and did not provide public notice of the failure to collect the repeat samples.
4. During a record review on December 1, 2006, TCEQ staff documented that the Respondent did not collect at least five routine bacteriological samples during the month following a total coliform-positive result and did not provide public notice of the failure to conduct bacteriological sampling in November 2006.
5. The Respondent received notice of the violations on October 29, 2007.
6. The Executive Director recognizes that the Respondent:
 - a. Came into compliance with collecting required monthly samples in December 2006 and returned to compliance with the total coliform rule at the Facility as of May 2007; and
 - b. Sold the Facility on August 10, 2007.

II. CONCLUSIONS OF LAW

1. The Respondent 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, the Respondent exceeded the MCL for total coliform in July, September and October 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect all required repeat samples within 24 hours of being notified of a total coliform-positive result on a routine sample and failed to provide public notice of the failure to collect all required repeat samples in October 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(b)(2)(A).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect at least five routine bacteriological samples during the month following a total coliform-positive result and failed to provide public notice of the failure to conduct bacteriological sampling in November 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(b)(2)(A).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the

Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of One Thousand Seven Hundred Twenty-Five Dollars (\$1,725) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Seven Hundred Twenty-Five Dollar (\$1,725) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Seven Hundred Twenty-Five Dollars (\$1,725) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mae Dell Tondre dba Tondre Water System, Docket No. 2007-1824-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. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
5. 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.

6. 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.
7. 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

John Soderer
For the Executive Director

3/21/2008
12-11-07
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Mae Dell Tondre dba Tondre Water System. I am authorized to agree to the attached Agreed Order on behalf of Mae Dell Tondre dba Tondre Water System, 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, Mae Dell Tondre dba Tondre Water System 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.

Mae Dell Tondre
Signature

12-11-07
Date

Mae Dell Tondre
Name (Printed or typed)
Authorized Representative of
Mae Dell Tondre dba Tondre Water System

Owner
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.

