

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2005-1018-PWS-E TCEQ ID: RN102323250 CASE NO.: 25744
RESPONDENT NAME: MARIO YAGUE DBA ARVEY PARK

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: 11200 Montana Avenue, El Paso County</p> <p>TYPE OF OPERATION: Recreational vehicle park</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 23, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717 TCEQ Regional Contact: Mr. Terry McMillan, El Paso Regional Office, MC R-6, (915) 834-4953 Respondent: Mr. Mario Yague, Owner, Arvey Park, 11200 Montana Avenue, El Paso, Texas 79936 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 1, 2005</p> <p>Date of NOE Relating to this Case: August 3, 2005</p> <p>Background Facts:</p> <p>The case was referred to the Litigation Division on November 21, 2005. Additional violations were added, and the EDPRP was filed on May 4, 2006. The original Agreed Order was signed July 26, 2006, and set for agenda. Due to necessary substantive changes discovered during the agenda backup process, a second Agreed Order was procured and published in the Texas Register on June 22, 2007.</p> <p>PWS:</p> <p>1. Failed to collect routine water samples for bacteriological analysis and failed to post a public notification of the monitoring violations [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>2. Failed to collect and submit repeat water samples within 24 hours of being notified of a total coliform positive sample result and failed to post public notice of the failure to conduct repeat sampling [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)].</p>	<p>Total Assessed: \$2,745</p> <p>Total Deferred: \$0</p> <p><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: \$2,745</p> <p>The Respondent has paid the \$2,745 administrative penalty in full.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent came into compliance with sampling requirements in March of 2005.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 10, 2005

DATES	Assigned	23-May-2005	Screening	06-Jun-2005	EPA Due	
	PCW	28-Jun-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mario Yague dba Arvey Park
Reg. Ent. Ref. No.	RN102323250
Facility/Site Region	6-El Paso
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	25744	No. of Violations	2
Docket No.	2005-1018-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Tel Croston
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 47% Enhancement Subtotals 2, 3, & 7 **\$1,058**

Notes: Respondent has nine NOVs for the same or similar violations and one NOV for an unrelated violation in the past five years.

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

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 **-\$563**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with a small x)

Notes: Respondent began sampling in March of 2005.

Economic Benefit 0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts	\$888	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$700	

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,745**

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 **\$2,745**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$2,745**

DEFERRAL Adjustment **\$0**

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

Notes: No deferral is offered with Findings Orders.

PAYABLE PENALTY **\$2,745**

Screening Date 06-Jun-2005

Docket No. 2005-1018-PWS-E

PCW

Respondent Mario Yague dba Arvey Park

Policy Revision 2 (September 2002)

Case ID No. 25744

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN102323250

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

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>	9	45%
	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)</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) 47%

>> **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

Respondent has nine NOVs for the same or similar violations and one NOV for an unrelated violation in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 06-Jun-2005 **Docket No.** 2005-1018-PWS-E **PCW**

Respondent Mario Yague dba Arvey Park

Policy Revision 2 (September 2002)

Case ID No. 25744

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN102323250

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.109((c)(2)(A)(i) & 290.122(c)(2)(B))

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(d)

Violation Description

Respondent failed to collect routine water samples for bacteriological analysis and failing to publish notice of the failure to conduct repeat sampling in a daily newspaper of general circulation in the area served by the system for the months of May and November 2003, April, May, October and November 2004 and January and February 2005, as documented during the TCEQ central office record review investigation conducted on March 1, 2005.

Base Penalty \$1,000

>> **Environmental, Property and Human Health Matrix**

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

>> **Programmatic Matrix**

		Major	Moderate	Minor	Percent
Falsification					

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

Base Penalty Subtotal \$250

Violation Events

Number of Violation Events 8

<i>mark only one use a small x</i>	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Eight monthly events are recommended based on the months that the respondent failed to collect samples.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$866

Violation Final Penalty Total \$2,440

This violation Final Assessed Penalty (adjusted for limits) \$2,440

Economic Benefit Worksheet

Respondent Mario Yague dba Arvey Park
 Case ID No. 25744
 Reg. Ent. Reference No. RN102323250
 Media [Statute] Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item	Cost	Date	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$450	01-May-2003	28-Feb-2005	1.8	\$41	\$825	\$866
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 routine sampling at \$50 per sample for an estimated nine samples and to post public notice of the violation. The beginning date is the first month sampling was required, the end date is the last month the sampling was not conducted.

Approx. Cost of Compliance

TOTAL

Screening Date 06-Jun-2005

Docket No. 2005-1018-PWS-E

PCW

Respondent Mario Yague dba Arvey Park

Policy Revision 2 (September 2002)

Case ID No. 25744

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN102323250

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B)

Secondary Rule Cite(s) Tex. Health & Safety Code § 341.033(d)

Violation Description
 Respondent failed to collect and submit repeat water samples within 24 hours of being notified of a total coliform positive sample result in July 2003 and failing to publish notice of the failure to conduct repeat sampling in a daily newspaper of general circulation in the area served by the system, as documented in a record review conducted on March 1, 2005.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

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

>> **Programmatic Matrix**

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

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

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	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

One monthly event is recommended based on the month (July 2003) when repeat samples were not taken.

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 Mario Yague dba Arvey Park
 Case ID No. 25744
 Reg. Ent. Reference No. RN102323250
 Media [Statute] 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	Percent Interest	Years of Depreciation
						5.0	15
						Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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

Item	Cost	Start Date	End Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$250	01-Jul-2003	31-Jul-2003	0.1	\$1	\$21	\$22
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 routine sampling at \$50 per sample for an estimated five samples. The beginning date is the first month sampling was required, the end date is the last month the sampling was not conducted.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN601227408 YAGUE, MARIO Classification: N/A Rating: 0.000
Regulated Entity: RN102323250 ARVEY PARK Classification: N/A Site Rating: 0.00
ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0710157
Location: 11200 MONTANA AVE, EL PASO, TX, 79936
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: June 02, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 02, 2000 to June 02, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Tel Croston Phone: 2395717

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
6. Comments:

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 11/07/2002 (15796)
- 2 05/18/2005 (380107)
- 3 04/01/2005 (379234)
- 4 03/14/2003 (27760)
- 5 07/02/2004 (379201)
- 6 12/28/2004 (379211)
- 7 09/17/2003 (379187)
- 8 09/16/2004 (334456)
- 9 10/29/2003 (253604)
- 10 07/16/2003 (378703)
- 11 12/08/2004 (379206)
- 12 01/13/2004 (379192)
- 13 03/03/2005 (379233)
- 14 05/26/2004 (379196)

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

- I. Date: 09/17/2003 (379187) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(3)(A)(ii)
Description: FAILURE TO COLLECT ANY REPEAT SAMPLES IN 07/2003 FOLLOWING A COLIFORM FOUND RESULT.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)

Description: FAILURE TO POST PN FOR NOT COLLECTING ANY REPEAT SAMPLES IN 07/2003 FOLLOWING A COLIFORM FOUND RESULT.

2. Date: 12/08/2004 (379206)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 10/2004.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 10/2004.
3. Date: 07/16/2003 (378703) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 05/2003.
4. Date: 12/28/2004 (379211) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 11/2004.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 11/2004.
5. Date: 05/26/2004 (379196) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 04/2004.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)
Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 04/2004.
6. Date: 01/16/2003 (15796) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter D 290.43(e)
Description: Failure to provide an intruder-resistant fence in order to protect the ground storage tank.
7. Date: 01/13/2004 (379192) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.108(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 11/2003.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 11/2003.
8. Date: 07/02/2004 (379201) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 05/2004.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 05/2004.
9. Date: 04/01/2005 (379234) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.108(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 02/2005.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO POST PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 02/2005.
10. Date: 03/03/2005 (379233) Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.109(c)(2)(A)(i)
Description: FAILURE TO COLLECT A ROUTINE MONITORING SAMPLE IN 01/2005.
- Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, Sub Chapter F 290.122(c)(2)(B)
Description: FAILURE TO POST A PN FOR NOT COLLECTING A ROUTINE MONITORING SAMPLE IN 01/2005.

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
MARIO YAGUE DBA ARVEY
PARK;
RN102323250**

§
§
§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2005-1018-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mario Yague dba Arvey Park ("Mr. Yague") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 (the "Code") and 30 TEX. ADMIN. CODE ch. 290. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Yague, presented this agreement to the Commission.

Mr. Yague understands that he 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, Mr. Yague agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Mr. Yague.

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

FINDINGS OF FACT

1. Mr. Yague owns and operates a recreational vehicle park with a public water supply at 11200 Montana Avenue in El Paso, El Paso County, Texas (the "Site") that has approximately 44 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on March 1, 2005, TCEQ staff documented that:

- a. Mr. Yague did not collect routine water samples for bacteriological analysis and failed to post public notification for the months of May and November 2003, April, May, October and November 2004, and January and February 2005.
 - b. Mr. Yague did not collect and submit repeat water samples within 24 hours of being notified of a total coliform positive sample result in July 2003 and failed to post public notice of the failure to conduct repeat sampling.
3. Mr. Yague received notice of the violations on April 8, 2005.
 4. The Executive Director recognizes that Mr. Yague came into compliance with sampling requirements in March of 2005.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Yague is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Mr. Yague has failed to collect routine water samples for bacteriological analysis and failed to post a public notification of the monitoring violations, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 2.b., Mr. Yague failed to collect and submit repeat water samples within 24 hours of being notified of a total coliform positive sample result and failed to post public notice of the failure to conduct repeat sampling, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Yague for violations of TEX. HEALTH & SAFETY CODE, TCEQ rules, and orders adopted under TEX. HEALTH & SAFETY CODE.
5. An administrative penalty in the amount of two thousand seven hundred forty-five dollars (\$2,745.00) 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). Mr. Yague has paid the two thousand seven hundred forty-five dollars (\$2,745.00) administrative penalty.

ORDERING PROVISIONS

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

1. Mr. Yague is assessed an administrative penalty in amount of two thousand seven hundred forty-five dollars (\$2,745.00) as set forth in Conclusion of Law No. 5 for violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ. The payment of this administrative penalty and Mr. Yague'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 sent with the notation "Re: Mario Yague dba Arvey Park; Docket No. 2005-1018-PWS-E" to:

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

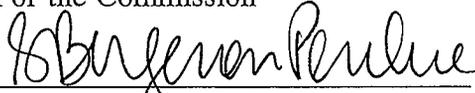
2. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Yague if the Executive Director determines that Mr. Yague has not complied with one or more of the terms or conditions in this Agreed Order.
3. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in this Agreed Order, whichever is later.
4. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Yague 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 the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
5. 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.
6. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the

date of hand-delivery of the Order to Mr. Yague, or three days after the date on which the Commission mails notice of the Order to Mr. Yague, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/17/07

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Mario Yague dba Arvey Park. I represent that I am authorized to agree to the attached Agreed Order on behalf of Mario Yague dba Arvey Park, 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, Mario Yague dba Arvey Park 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.

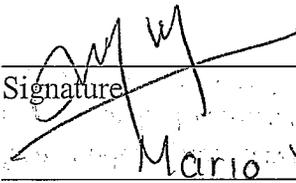
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Signature



Name (printed or typed)

Authorized Representative

Mario Yague dba Arvey Park

Date

3-27-07

Title

Owner