

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1829-PWS-E TCEQ ID: RN101653723 CASE NO.: 36835

RESPONDENT NAME: LARRY O'NEILL DBA LAZY ACRES TRAILER 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 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

SITE WHERE VIOLATION(S) OCCURRED: 8611 New Laredo Highway, San Antonio, Bexar County

TYPE OF OPERATION: mobile home park with a public water supply

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired November 9, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Amanda Henry, Water Enforcement Section, MC R-12, (713) 767-3672

TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

Respondent: Mr. Larry O'Neill, Owner, Lazy Acres Trailer Park, 2256 West Lindner Avenue, Unit 5, Mesa, Arizona 85202

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 Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 17, 2008</p> <p>Date of NOE Relating to this Case: April 21, 2008</p> <p>Background Facts: The case was referred to the Litigation Division on March 13, 2009. The EDPRP was filed April 13, 2009. The EDFARP was filed May 14, 2009. The Respondent failed to answer and a Default Order was set on the September 23, 2009, agenda. The Respondent contacted the Litigation Attorney on September 16, 2009, requesting an Agreed Order, so the case was remanded back to the Executive Director. The signed Agreed Order and initial payment were received on September 19, 2009.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008, and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)]. Failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)]. 	<p>Total Assessed: \$ 6,286</p> <p>Total Deferred: \$ <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$200/\$6,086</p> <p>The Respondent paid \$200 of the administrative penalty. The remaining amount of \$6086 shall be payable in 34 monthly payments of \$179 each.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: Three or more NOVs for the same violation within the previous five-year period.</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 10 days: <ol style="list-style-type: none"> Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply; and Begin performing monthly distribution coliform sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1.a. and 1.b.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to collect a minimum of five routine distribution coliform samples during the months of November 2006 and March 2007 following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Oct-2008	Screening	20-Nov-2008	EPA Due	7-May-2008
	PCW	21-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Larry O' Neill dba Lazy Acres Trailer Park
Reg. Ent. Ref. No.	RN101653723
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36835	No. of Violations	3
Docket No.	2008-1829-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		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** **\$3,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7** **\$2,160**

Notes: The penalty enhancement is due to 14 prior Notices of Violation ("NOV"s) for violations that are the same as the violations in the current enforcement action and one dissimilar NOV's.

Culpability **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

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

Total EB Amounts	\$907	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$825	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,160**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$1,126**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: An enhancement is recommended for recovery of the avoided costs of compliance.

Final Penalty Amount **\$6,286**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,286**

DEFERRAL **Adjustment** **\$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$6,286**

Screening Date 20-Nov-2008

Docket No. 2008-1829-PWS-E

PCW

Respondent Larry O' Neill dba Lazy Acres Trailer Park

Policy Revision 2 (September 2002)

Case ID No. 36835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101653723

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	14	70%
	Other written NOV's	1	2%
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%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 72%

>> 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

The penalty enhancement is due to 14 prior Notices of Violation ("NOV"s) for violations that are the same as the violations in the current enforcement action and one dissimilar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 72%

Screening Date 20-Nov-2008

Docket No. 2008-1829-PWS-E

PCW

Respondent Larry O' Neill dba Lazy Acres Trailer Park

Policy Revision 2 (September 2002)

Case ID No. 36835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101653723

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008 and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to perform routine distribution coliform sampling of the public water supply may expose the public to a significant amount of undetected contaminants, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 8 Number of violation days 244

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

Violation Base Penalty \$2,000

Eight monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$428

Violation Final Penalty Total \$4,191

This violation Final Assessed Penalty (adjusted for limits) \$4,191

Economic Benefit Worksheet

Respondent: Larry O' Neill dba Lazy Acres Trailer Park

Case ID No.: 36835

Reg. Ent. Reference No.: RN101653723

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	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1]: avoided costs before entering item, except for one-time avoided costs

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$375	1-May-2006	31-Mar-2008	2.84	\$63	\$375	\$428
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount to conduct monthly distribution coliform sampling and provide public notification, calculated for the months in which monitoring was not performed. (The EB of \$25 is an average cost to sample and \$25 per notice)

Approx. Cost of Compliance

\$375

TOTAL

\$428

Screening Date 20-Nov-2008

Docket No. 2008-1829-PWS-E

PCW

Respondent Larry O' Neill dba Lazy Acres Trailer Park

Policy Revision 2 (September 2002)

Case ID No. 36835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101653723

Media [Statute] Public Water Supply

Enf. Coordinator: Amanda Henry

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)

Violation Description

Failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 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
Actual			
Potential			

Percent 0%

Matrix Notes

Failure to perform routine distribution coliform sampling of the public water supply could result in customers of the water supply being exposed to significant amounts of contamination, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

Number of violation days 62

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$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 for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$241

Violation Final Penalty Total \$1,048

This violation Final Assessed Penalty (adjusted for limits) \$1,048

Economic Benefit Worksheet

Respondent: Larry O' Neill dba Lazy Acres Trailer Park

Case ID No.: 36835

Reg. Ent. Reference No.: RN101653723

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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$225	1-Oct-2006	31-Mar-2007	1.41	\$16	\$225	\$241
Other (as needed)				1.41	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to collect and submit four repeat distribution coliform samples and to provide proper notification to the customers, calculated for the months in which all repeat coliform sampling and public notice should have occurred. (The EB of \$25 is an average cost to sample and \$25 per notice)

Approx. Cost of Compliance

\$225

TOTAL

\$241

Screening Date 20-Nov-2008

Docket No. 2008-1829-PWS-E

PCW

Respondent Larry O' Neill dba Lazy Acres Trailer Park

Policy Revision 2 (September 2002)

Case ID No. 36835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101653723

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(F) and 290.122(c)(2)(A)

Violation Description

Failed to collect a minimum of five routine distribution coliform samples during the months of November 2006 and March 2007 following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007. Specifically, only one routine sample was collected during November 2006 and March 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 perform routine distribution coliform sampling of the public water supply and failure to provide public notification could result in customers of the water supply being exposed to significant amounts of contamination, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$238

Violation Final Penalty Total \$1,048

This violation Final Assessed Penalty (adjusted for limits) \$1,048

Economic Benefit Worksheet

Respondent: Larry O' Neill dba Lazy Acres Trailer Park

Case ID No.: 36835

Reg. Ent. Reference No.: RN101653723

Media: Public Water Supply

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$225	31-Dec-2006	31-Mar-2007	1.16	\$13	\$225	\$238
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform monthly sampling and post public notice calculated for the months in which inadequate coliform sampling was performed.

Approx. Cost of Compliance

\$225

TOTAL

\$238

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603140112 ONEILL, LARRY	Classification:	Rating:
Regulated Entity:	RN101653723 LAZY ACRES TRAILER PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0150186
	WATER LICENSING	LICENSE	0150186
Location:	8611 NEW LAREDO HWY, SAN ANTONIO, BEXAR COUNTY, TX, 78211		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	November 20, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 20, 2003 to November 20, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Amanda Henry	Phone:	713-767-3672

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 judgments, 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 | 12/03/2003 | (432447) |
| 2 | 12/04/2003 | (432448) |
| 3 | 01/07/2004 | (432449) |
| 4 | 03/15/2006 | (454567) |
| 5 | 06/27/2006 | (433324) |
| 6 | 10/25/2006 | (537810) |
| 7 | 11/21/2006 | (538989) |
| 8 | 12/21/2006 | (539005) |
| 9 | 04/15/2007 | (644343) |
| 10 | 07/01/2007 | (644993) |
| 11 | 08/15/2007 | (645533) |
| 12 | 11/01/2007 | (646009) |
| 13 | 12/20/2007 | (611606) |
| 14 | 04/23/2008 | (653437) |
| 15 | 06/16/2008 | (682502) |
| 16 | 10/23/2008 | (706249) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|---|--|-------------|--------------------------|
| 1 | Date: 12/03/2003 (432447) | CN603140112 | Classification: Moderate |
| | Self Report? NO | | |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii) | | |
| | Description: Failure to collect any repeat samples in 10/2003 following a coliform found result. | | |
| | Self Report? NO | | Classification: Moderate |
| | Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) | | |
| | Description: Failure to post a PN for not collecting any repeat samples in 10/2003 following a | | |

- coliform found result.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: Failure to collect all of the 5 distribution samples in 11/2003 following a coliform found month.
- 2 Date: 12/04/2003 (432448) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: Exceeded a maximum contaminant level (MCL) violation in 11/2003.
- 3 Date: 01/07/2004 (432449) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: Failure to collect all of the 5 distribution samples in 12/2003 following a coliform found month.
- 4 Date: 03/15/2006 (454567) CN603140112
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)
 Description: FAILURE TO PROVIDE ADEQUATE INTRUDER-RESISTANT FENCING.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
 Description: FAILURE TO CALIBRATE THE WELL METER ONCE EVERY THREE YEARS
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: FAILURE TO PROVIDE A MICROBIOLOGICAL MONITORING PLAN
- 5 Date: 06/27/2006 (433324) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: Bact Monitoring 05/2006- Failure to collect a routine monitoring sample for 05/2006.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
 Description: Bact Public Notice 05/2006 - Failure to post PN for not collecting any routine monitoring sample(s) in 05/2006.
- 6 Date: 10/25/2006 (537810) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: Bact Monitoring 09/2006- Failure to collect a routine monitoring sample for 09/2006.
- 7 Date: 11/21/2006 (538989) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)
 Description: Bact Repeat Monitoring 10/2006 - Failure to collect repeat samples following a coliform found result in 10/2006.
- 8 Date: 12/21/2006 (539005) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
 Description: Bact Increase Monitoring 11/2006 - Failure to collect all the 5 distribution samples following a coliform found month in 11/2006.
- 9 Date: 04/15/2007 (644343) CN603140112
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)
 Description: Bact Monitoring 03/2007 - Failure to collect any repeat samples following a coliform found result in 03/2007.
 Self Report? NO Classification: Moderate

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

10 Date: 08/15/2007 (645533) CN603140112
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: Bact Monitoring 07/2007 - Failure to collect a routine monitoring sample for 07/2007.

11 Date: 01/31/2008 (644343) CN603140112
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)
Description: Bact Monitoring 10/2007 - Failure to collect a routine coliform sample for 10/2007.

12 Date: 02/14/2008 (646009) CN603140112
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: Bact Monitoring 11/2007 - Failure to collect a routine coliform sample for 11/2007.

13 Date: 02/21/2008 (646009) CN603140112
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: Bact Monitoring 12/2007 - Failure to collect a routine coliform sample for 12/2007.

14 Date: 04/16/2008 (646009) CN603140112
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: Bact Monitoring 02/2008 - Failure to collect a routine coliform sample for 02/2008.

15 Date: 04/21/2008 (646009) CN603140112
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: Bact Monitoring 03/2003 - Failure to collect a routine coliform sample for 03/2008.

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
LARRY O'NEILL DBA LAZY
ACRES TRAILER PARK;
RN101653723

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1829-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 Larry O'Neill dba Lazy Acres Trailer Park ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and the Respondent, presented this agreement to the Commission.

The Respondent 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, the Respondent 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 the Respondent.

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

FINDINGS OF FACT

1. The Respondent owns and operates a mobile home park with a public water supply located at 8611 New Laredo Highway in San Antonio, Bexar County, Texas (the "Facility").
2. The Facility has 36 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).

3. During a record review conducted on April 17, 2008, a TCEQ Central Office investigator documented that the Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008 and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008.
 - b. Failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007.
 - c. Failed to collect a minimum of five routine distribution coliform samples during the months of November 2006 and March 2007 following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007. Specifically, only one routine sample was collected during November 2006 and March 2007.
4. The Respondent received notice of the violations on or about April 26, 2008.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3.a., the Respondent failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008 and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3.b., the Respondent failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of

a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).

4. As evidenced of Finding of Fact No. 3.c., the Respondent failed to collect a minimum of five routine distribution coliform samples during the months of November 2006 and March 2007 following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).
5. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of state statutes 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 six thousand two hundred eighty-six dollars (\$6,286.00) 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. The Respondent has paid two hundred dollars (\$200.00) of the administrative penalty. The remaining amount of six thousand eighty-six dollars (\$6,086.00) of the administrative penalty shall be payable in 34 monthly payments of one hundred seventy-nine dollars (\$179.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be remitted not later than 30 days following the due date of the previous payment. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Conclusion of Law No. 6, above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Larry O'Neill dba Lazy Acres Trailer Park; Docket No. 2008-1829-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 Respondent shall undertake the following technical requirements:

- a. Within 10 days after the effective date of this Agreed Order, the Respondent shall:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, in accordance with 30 TEX. ADMIN. CODE § 290.122; and,
 - ii. Begin performing monthly distribution coliform sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan, as required by 30 TEX. ADMIN. CODE § 290.109.

- b. Within 15 days after the effective date of this Agreed Order, the Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. 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 fine and imprisonment for knowing violations."

The Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No 2.a. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
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 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.
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 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to the Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Larry O'Neill dba Lazy Acres Trailer Park
DOCKET NO. 2008-1829-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Robertson Penline
For the Executive Director

10/9/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Larry O'Neill dba Lazy Acres Trailer Park, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

Larry O'Neill
L.K. O'Neill
Signature LARRY O'NEILL

9/18/09
Date

L.K. O'NEILL
Name (Printed or typed)
Larry O'Neill dba Lazy Acres Trailer Park

MANAGER
Title