

CAPTION: Docket No. 2008-0429-MWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of William Donald Smith dba Sunset Mobile Home Park in Harris County; RN101703197; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Roshondra Lowe, Bryan Sinclair)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0429-MWD-E TCEQ ID: RN101703197 CASE NO.: 35532

RESPONDENT NAME: William Donald Smith dba Sunset Mobile Home Park

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input 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 type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" 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: Sunset Mobile Home Park, located at approximately 100 feet southwest of Romona Road and Vogel Creek at 6901 Romona Boulevard, Houston, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</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 August 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Roshondra Lowe, Enforcement Division, Enforcement Team 5, R-12, (713) 767-3553; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. William Smith, Owner, Sunset Mobile Home Park, 10706 Cora Street TRLR 71, Houston, Texas 77088 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 11, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 29, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014506001, which expired on March 1, 2007, and is continuing to discharge wastewater from the Facility [30 TEX. ADMIN. CODE §§ 305.65, 305.125(2) and TEX. WATER CODE § 26.121(a)(1)].</p> | <p>Total Assessed: \$20,800</p> <p>Total Deferred: \$4,160 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$16,640</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0014506001;</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305;</p> <p>c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing; and</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.</p> |

Additional ID No(s): TX0090735



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

| | | | | | | |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned | 3-Mar-2008 | Screening | 10-Mar-2008 | EPA Due | |
| | PCW | 1-Apr-2008 | | | | |

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | William Donald Smith dba Sunset Mobile Home Park |
| Reg. Ent. Ref. No. | RN101703197 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|--------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 35532 | No. of Violations | 1 |
| Docket No. | 2008-0429-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Roshondra Lowe |
| Multi-Media | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|-----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$13,000 |
|---|-------------------|-----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-----------------|--------------------------------|----------------|
| Compliance History | 60% Enhancement | Subtotals 2, 3, & 7 | \$7,800 |
|---------------------------|-----------------|--------------------------------|----------------|

Notes: Penalty enhanced due to 30 NOVs for unrelated issues.

| | | | | |
|--------------------|----|----------------|-------------------|------------|
| Culpability | No | 0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|----------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

| | | | |
|------------------------------------|--------------|-------------------|------------|
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 | \$0 |
|------------------------------------|--------------|-------------------|------------|

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

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

| | | | | |
|-----------------------------------|---------|--|-------------------|------------|
| Total EB Amounts | \$313 | 0% Enhancement* | Subtotal 6 | \$0 |
| Approx. Cost of Compliance | \$2,500 | <i>*Capped at the Total EB \$ Amount</i> | | |

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$20,800 |
|-----------------------------|-----------------------|-----------------|

| | | | |
|---|----|-------------------|------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0% | Adjustment | \$0 |
|---|----|-------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|-----------------|
| Final Penalty Amount | \$20,800 |
|-----------------------------|-----------------|

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$20,800 |
|-----------------------------------|-------------------------------|-----------------|

| | | | |
|-----------------|---------------|-------------------|-----------------|
| DEFERRAL | 20% Reduction | Adjustment | -\$4,160 |
|-----------------|---------------|-------------------|-----------------|

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

Notes: Deferral offered for expedited settlement.

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$16,640 |
|------------------------|-----------------|

Screening Date 10-Mar-2008

Docket No. 2008-0429-MWD-E

PCW

Respondent William Donald Smith dba Sunset Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 35532

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101703197

Media [Statute] Water Quality

Enf. Coordinator Roshondra Lowe

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 0 | 0% |
| | Other written NOVs | 30 | 60% |
| 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) 60%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Penalty enhanced due to 30 NOVs for unrelated issues.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date 10-Mar-2008

Docket No. 2008-0429-MWD-E

PCW

Respondent William Donald Smith dba Sunset Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 35532

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101703197

Media [Statute] Water Quality

Enf. Coordinator Roshondra Lowe

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 305.65, 305.125(2) and Tex. Water Code § 26.121(a)(1)

Violation Description Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014506001, which expired on March 1, 2007, and is continuing to discharge wastewater from the Facility.

Base Penalty

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

OR

| Release | Harm | | |
|-----------|----------------------|----------------------|----------------------|
| | Major | Moderate | Minor |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Percent

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor |
|----------------------|-------------------------------------|--------------------------|--------------------------|
| <input type="text"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an 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

Thirteen monthly events are recommended from the date of permit expiration on March 1, 2007 to the screening date of March 10, 2008.

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 William Donald Smith dba Sunset Mobile Home Park
Case ID No. 35532
Reg. Ent. Reference No. RN101703197
Media Water Quality
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) | \$2,500 | 1-Mar-2007 | 1-Sep-2009 | 2.5 | \$313 | n/a | \$313 |

Notes for DELAYED costs
 Estimated cost of preparing and submitting a new permit application to obtain authorization to discharge wastewater. Date required is the date previous permit expired. Final date is the projected date to obtain a new TPDES permit.

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 | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

| | | | |
|----------------------------|---------|--------------|-------|
| Approx. Cost of Compliance | \$2,500 | TOTAL | \$313 |
|----------------------------|---------|--------------|-------|

Compliance History

Customer/Respondent/Owner-Operator: CN600919559 SMITH, WILLIAM DONALD Classification: AVERAGE Rating: 8.64
Regulated Entity: RN101703197 SUNSET MOBILE HOME PARK Classification: AVERAGE Site Rating: 2.79
ID Number(s): WASTEWATER PERMIT WQ0014506001
WASTEWATER PERMIT TX0090735
Location: Located approximately 100 feet southwest of the intersection of Romona Road and Vogel Creek at 6901 ROMONA BLVD, Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: March 31, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 31, 2003 to March 31, 2008

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

Name: Roshondra Lowe Phone: (713) 767-3553

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

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

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

| | | |
|----|------------|----------|
| 1 | 11/21/2003 | (253944) |
| 2 | 07/23/2004 | (361876) |
| 3 | 08/20/2004 | (361877) |
| 4 | 09/24/2004 | (361878) |
| 5 | 10/21/2004 | (361879) |
| 6 | 11/18/2004 | (387391) |
| 7 | 12/10/2004 | (387392) |
| 8 | 01/26/2005 | (387393) |
| 9 | 03/09/2005 | (387390) |
| 10 | 04/22/2005 | (425122) |
| 11 | 05/23/2005 | (425123) |
| 12 | 06/21/2005 | (425124) |
| 13 | 07/29/2005 | (445740) |
| 14 | 08/31/2005 | (445741) |
| 15 | 10/03/2005 | (477581) |
| 16 | 10/24/2005 | (477582) |
| 17 | 11/05/2005 | (477583) |
| 18 | 12/19/2005 | (477584) |
| 19 | 01/17/2006 | (477585) |
| 20 | 02/24/2006 | (477579) |
| 21 | 03/27/2006 | (477580) |
| 22 | 04/28/2006 | (504107) |
| 23 | 05/23/2006 | (504108) |
| 24 | 07/10/2006 | (466137) |
| 25 | 08/01/2006 | (483602) |
| 26 | 09/22/2006 | (526489) |
| 27 | 10/19/2006 | (625591) |
| 28 | 10/19/2006 | (625592) |
| 29 | 10/19/2006 | (625595) |
| 30 | 11/28/2006 | (625597) |

31 12/20/2006 (625599)
 32 01/03/2007 (534516)
 33 01/22/2007 (625601)
 34 02/23/2007 (625585)
 35 03/28/2007 (625586)
 36 04/30/2007 (625587)
 37 06/04/2007 (625588)
 38 06/26/2007 (625589)
 39 07/23/2007 (625590)
 40 08/23/2007 (625593)
 41 09/21/2007 (625594)
 42 10/25/2007 (625596)
 43 12/03/2007 (625598)
 44 12/27/2007 (625600)
 45 02/29/2008 (617470)

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

| | | | | |
|--------------|---|----------|----------------|----------|
| Date | 06/30/2004 | (361876) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 07/31/2004 | (361877) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 08/31/2004 | (361878) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 09/30/2004 | (361879) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 10/31/2004 | (387391) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 11/30/2004 | (387392) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 12/31/2004 | (387393) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 01/31/2005 | (387390) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 02/28/2005 | (445740) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 03/31/2005 | (425122) | | |
| Self Report? | YES | | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | | |
| Description: | Failure to meet the limit for one or more permit parameter | | | |
| Date | 04/30/2005 | (425123) | | |

| | | | |
|--------------|--|----------------|----------|
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 05/31/2005 (425124) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 07/31/2005 (445741) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 08/31/2005 (477581) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 09/30/2005 (477582) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 10/31/2005 (477583) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 11/30/2005 (477584) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 12/31/2005 (477585) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 01/31/2006 (477579) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 02/28/2006 (477580) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 03/31/2006 (504107) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 04/30/2006 (504108) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 07/30/2006 (625591) | | |
| Self Report? | YES | Classification | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 07/31/2006 (483602) | | |
| Self Report? | NO | Classification | Moderate |

Rqmt Prov: PERMIT Sludge Provisions, Section 1, C
Description: Failure to conduct metals analyses on the sludge in the last twelve months. Metals analyses were last performed in 2001.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to prevent the unauthorized discharge of wastewater. Influent was splashing over the sides of the barscreen box at the time of the inspection.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Description: Failure to sign the chain of custody for the sample collected on May 31, 2006. The operations company collected a sample on May 31, 2006 and the person collecting the sample did not sign the chain of custody form.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to provide documentation for the calibration of the dissolved oxygen meter and the pH meter for samples that were collected by the operations company on May 31, 2006 and January 18, 2006.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to prevent the accumulation of sludge in the chlorine contact chamber. Three-quarters of a foot of sludge was noted in an eight foot water depth.
Date 08/31/2006 (526489)

Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2006 (625595)

Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 10/31/2006 (625597)

Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 11/30/2006 (625599)

Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2007 (625585)

Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2007 -625586

Self Report? YES Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
WILLIAM DONALD SMITH DBA
SUNSET MOBILE HOME PARK
RN101703197

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0429-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located at approximately 100 feet southwest of Romona Road and Vogel Creek at 6901 Romona Boulevard in Houston, Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 5, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand Eight Hundred Dollars (\$20,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Sixteen Thousand Six Hundred Forty Dollars (\$16,640) of the administrative penalty and Four Thousand One Hundred Sixty Dollars (\$4,160) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to maintain authorization for the discharge of wastewater, in violation of 30 TEX. ADMIN. CODE §§ 305.65, 305.125(2) and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on February 11, 2008. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014506001, which expired on March 1, 2007, and is continuing to discharge wastewater from the Facility.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: William Donald Smith dba Sunset Mobile Home Park, Docket No. 2008-0429-MWD-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0014506001;
 - b. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305;
 - c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing; and
 - d. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. Written certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance and shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon 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.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

William Donald Smith dba Sunset Mobile Home Park
DOCKET NO. 2008-0429-MWD-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

12/29/2008
Date

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

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

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

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

William D Smith
Signature

12-17-08
Date

WILLIAM D. SMITH
Name (Printed or typed)
Authorized Representative of
William Donald Smith dba Sunset Mobile Home Park

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.

