

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0961-PWS-E **TCEQ ID:** RN102708153 **CASE NO.:** 36045

**RESPONDENT NAME:** Dwight Ball dba Lazy Acres Mobile Home Park

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <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                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <input type="checkbox"/> AIR   | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input checked="" type="checkbox"/> PUBLIC WATER SUPPLY  | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input type="checkbox"/> WATER QUALITY   | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE   | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lazy Acres Mobile Home Park, 618 West Archer Road, Baytown, Harris County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 19, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Christopher Keffer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-5610; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171<br/> <b>Respondent:</b> Mr. Dwight Ball, Owner, Lazy Acres Mobile Home Park, 618 West Archer Road, Baytown, Texas 77521<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

| VIOLATION SUMMARY CHART:  |   |   |
|---|---|---|
| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 18, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 31, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failure to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a), and 290.274(c)].</p> | <p><b>Total Assessed:</b> \$1,293</p> <p><b>Total Deferred:</b> \$258<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$1,035</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, mail or directly deliver one copy of the CCR, prepared using the compliance monitoring data for the year 2007, to each bill paying customer, and make a good faith effort to deliver to non-bill paying consumers;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data; and</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p> |

Additional ID No(s): PWS 1013249



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

|              |          |             |           |             |         |
|--------------|----------|-------------|-----------|-------------|---------|
| <b>DATES</b> | Assigned | 13-May-2008 |           |             |         |
|              | PCW      | 12-Jun-2008 | Screening | 12-Jun-2008 | EPA Due |

|  |   |                    |       |
|--|---|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |   |                    |       |
| Respondent                             | Dwight Ball dba Lazy Acres Mobile Home Park |                    |       |
| Reg. Ent. Ref. No.                     | RN102708153                                 |                    |       |
| Facility/Site Region                   | 12-Houston                                  | Major/Minor Source | Minor |

|                         |                     |                   |                    |         |
|-------------------------|---------------------|-------------------|--------------------|---------|
| <b>CASE INFORMATION</b> |                     |                   |                    |         |
| Enf./Case ID No.        | 36045               | No. of Violations | 1                  |         |
| Docket No.              | 2008-0961-PWS-E     | Order Type        | 1660               |         |
| Media Program(s)        | Public Water Supply | Enf. Coordinator  | Christopher Keffer |         |
| Multi-Media             |                     | EC's Team         | Enforcement Team 2 |         |
| Admin. Penalty \$       | Limit Minimum       | \$50              | Maximum            | \$1,000 |

## Penalty Calculation Section

|   |                   |              |
|---|-------------------|--------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$700</b> |
|---|-------------------|--------------|

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

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

|                           |                  |                                |             |
|---------------------------|------------------|--------------------------------|-------------|
| <b>Compliance History</b> | 4.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | <b>\$28</b> |
|---------------------------|------------------|--------------------------------|-------------|

Notes: Enhancement is due to two NOVs with dissimilar violations as those in the current enforcement action.

|                    |    |                  |                   |            |
|--------------------|----|------------------|-------------------|------------|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|----|------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

|                                    |                |                   |            |
|------------------------------------|----------------|-------------------|------------|
| <b>Good Faith Effort to Comply</b> | 0.0% Reduction | <b>Subtotal 5</b> | <b>\$0</b> |
|------------------------------------|----------------|-------------------|------------|

|               |            |                               |
|---------------|------------|-------------------------------|
|               | 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.

|                                   |       |                                   |                   |            |
|-----------------------------------|-------|-----------------------------------|-------------------|------------|
| <b>Total EB Amounts</b>           | \$565 | 0.0% Enhancement*                 | <b>Subtotal 6</b> | <b>\$0</b> |
| <b>Approx. Cost of Compliance</b> | \$420 | *Capped at the Total EB \$ Amount |                   |            |

|                             |                       |              |
|-----------------------------|-----------------------|--------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$728</b> |
|-----------------------------|-----------------------|--------------|

|   |       |                   |              |
|---|-------|-------------------|--------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 77.6% | <b>Adjustment</b> | <b>\$565</b> |
|---|-------|-------------------|--------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover avoided costs.

|                             |                |
|-----------------------------|----------------|
| <b>Final Penalty Amount</b> | <b>\$1,293</b> |
|-----------------------------|----------------|

|                                   |                               |                |
|-----------------------------------|-------------------------------|----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$1,293</b> |
|-----------------------------------|-------------------------------|----------------|

|                 |                 |                   |               |
|-----------------|-----------------|-------------------|---------------|
| <b>DEFERRAL</b> | 20.0% Reduction | <b>Adjustment</b> | <b>-\$258</b> |
|-----------------|-----------------|-------------------|---------------|

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

Notes: Deferral offered for expedited settlement.

|                        |                |
|------------------------|----------------|
| <b>PAYABLE PENALTY</b> | <b>\$1,035</b> |
|------------------------|----------------|

**Screening Date** 12-Jun-2008

**Docket No.** 2008-0961-PWS-E

**PCW**

**Respondent** Dwight Ball dba Lazy Acres Mobile Home Park

Policy Revision 2 (September 2002)

**Case ID No.** 36045

PCW Revision April 29, 2008

**Reg. Ent. Reference No.** RN102708153

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Christopher Keffer

**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<br>(number of NOVs meeting criteria)   | 0                 | 0%      |
|                               | Other written NOVs   | 2                 | 4%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 4%

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

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement is due to two NOVs with dissimilar violations as those in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 4%

|   |   |            |
|---|---|------------|
| <b>Screening Date</b> 12-Jun-2008                             | <b>Docket No.</b> 2008-0961-PWS-E         | <b>PCW</b> |
| <b>Respondent</b> Dwight Ball dba Lazy Acres Mobile Home Park | <i>Policy Revision 2 (September 2002)</i> |            |
| <b>Case ID No.</b> 36045                                      | <i>PCW Revision April 29, 2008</i>        |            |
| <b>Reg. Ent. Reference No.</b> RN102708153                    |   |            |
| <b>Media [Statute]</b> Public Water Supply                    |   |            |
| <b>Enf. Coordinator</b> Christopher Keffer                    |   |            |

|                              |  |
|------------------------------|--|
| <b>Violation Number</b>      | 1  |
| <b>Rule Cite(s)</b>          | 30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and 290.274(c)   |
| <b>Violation Description</b> | Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2000 through 2006. |

**Base Penalty**

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

|                  |   |   |   |   |  |
|------------------|---|---|---|---|--|
| OR               | <b>Harm</b>                               |   |   |   |  |
|                  | <b>Release</b>                            | <b>Major</b>                              | <b>Moderate</b>                           | <b>Minor</b>  |  |
|                  | <b>Actual</b>                             | <input style="width: 40px;" type="text"/> | <input style="width: 40px;" type="text"/> | <input style="width: 40px;" type="text"/>                           |  |
| <b>Potential</b> | <input style="width: 40px;" type="text"/> | <input style="width: 40px;" type="text"/> | <input style="width: 40px;" type="text"/> | <b>Percent</b> <input style="width: 40px;" type="text" value="0%"/> |  |

**>> Programmatic Matrix**

|                     |  |              |   |   |  |
|---------------------|--|--------------|---|---|--|
|                     | <b>Falsification</b>   | <b>Major</b> | <b>Moderate</b>                           | <b>Minor</b>                              |  |
|                     | <input style="width: 40px;" type="text"/>                            | x            | <input style="width: 40px;" type="text"/> | <input style="width: 40px;" type="text"/> |  |
|                     | <b>Percent</b> <input style="width: 40px;" type="text" value="10%"/> |              |   |   |  |
| <b>Matrix Notes</b> | 100% of the rule requirement was not met.                            |              |   |   |  |

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

|  |              |   |
|--|--------------|---|
|  | daily        | <input style="width: 40px;" type="text"/> |
|  | monthly      | <input style="width: 40px;" type="text"/> |
|  | quarterly    | <input style="width: 40px;" type="text"/> |
|  | semiannual   | <input style="width: 40px;" type="text"/> |
|  | annual       | x   |
|  | single event | <input style="width: 40px;" type="text"/> |

**Violation Base Penalty**

Seven annual events are recommended for the years in which no CCR or certification of delivery was submitted to the TCEQ.

**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** Dwight Ball dba Lazy Acres Mobile Home Park  
**Case ID No.** 36045  
**Reg. Ent. Reference No.** RN102708153  
**Media** Public Water Supply  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

| Item Description         | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Equipment                |           |               |            | 0.00 | \$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)

| Item Description              | 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]    | \$420     | 1-Jul-2001    | 1-Jul-2007 | 6.92 | \$145          | \$420         | \$565     |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no report was distributed.

Approx. Cost of Compliance

\$420

**TOTAL**

\$565

## Compliance History

|   |   |                 |              |
|---|---|-----------------|--------------|
| Customer/Respondent/Owner-Operator:           | CN601375660 BALL, DWIGHT                | Classification: | Rating:      |
| Regulated Entity:                             | RN102708153 LAZY ACRES MOBILE HOME PARK | Classification: | Site Rating: |
| ID Number(s):                                 | PUBLIC WATER SYSTEM/SUPPLY              | REGISTRATION    | 1013249      |
| Location:                                     | 618 W ARCHER RD, BAYTOWN, TX, 77521     |                 |              |
| TCEQ Region:                                  | REGION 12 - HOUSTON                     |                 |              |
| Date Compliance History Prepared:             | May 28, 2008                            |                 |              |
| Agency Decision Requiring Compliance History: | Enforcement                             |                 |              |
| Compliance Period:                            | May 28, 2003 to May 28, 2008            |                 |              |

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

Name: Christopher Keffer Phone: (512) 239-5610

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

- |   |            |          |
|---|------------|----------|
| 1 | 12/15/2003 | (256346) |
| 2 | 11/01/2007 | (596309) |
| 3 | 05/09/2008 | (654981) |

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

Date: 12/15/2003 (256346)

- |              |   |                 |          |
|--------------|---|-----------------|----------|
| Self Report? | NO  | Classification: | Minor    |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(t)  |                 |          |
| Description: | Failure to post a legible sign at each of its production, treatment, and storage facilities by each community system. |                 |          |
| Self Report? | NO  | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(u)  |                 |          |
| Description: | Failure to plug an abandoned public water supply well with cement according to 16 TAC Chapter 76.                     |                 |          |
| Self Report? | NO  | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  |                 |          |
| Description: | Failure to make available sanitary control easement for the well at the time of inspection.                           |                 |          |
| Self Report? | NO  | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  |                 |          |
| Description: | Failure to protect the well unit with an intruder-resistant fence or a locked, ventilated well house.                 |                 |          |
| Self Report? | NO  | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.39(e)<br>30 TAC Chapter 290, SubChapter D 290.46(n)(1)                           |                 |          |

Description: Failure to provide "as-built" plans and specifications for our review.  
Date: 11/10/2007 (596309)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(t)  
Description: Failure to post a legible sign at each of its production, treatment, and storage facilities by each community system.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)  
Description: Failure to plug an abandoned public water supply well with cement according to 16 TAC Chapter 76.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description: Failure to make available sanitary control easement for the well at the time of inspection.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
Description: Failure to protect the well unit with an intruder-resistant fence or a locked, ventilated well house.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)  
30 TAC Chapter 290, SubChapter D 290.46(n)(1)  
Description: Failure to provide "as-built" plans and specifications for our review.

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  
DWIGHT BALL DBA LAZY ACRES  
MOBILE HOME PARK  
RN102708153

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0961-PWS-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 Dwight Ball dba Lazy Acres Mobile Home Park ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 618 West Archer Road in Baytown, Harris County, Texas (the "Facility") that has approximately 20 service connections and serves at least 25 people per day for at least 60 days per year.
2. 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.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 5, 2008.
4. 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.
5. An administrative penalty in the amount of One Thousand Two Hundred Ninety-Three Dollars (\$1,293) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Thirty-Five Dollars (\$1,035) of the administrative penalty and Two Hundred Fifty-Eight Dollars (\$258) 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. 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 mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b), 290.274(a) and 290.274(c), as documented during a record review conducted on February 18, 2008.

## 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 5 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: Dwight Ball dba Lazy Acres Mobile Home Park, Docket No. 2008-0961-PWS-E" to:



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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2007 to each bill paying customer, and make a good faith effort to deliver to non-bill paying consumers, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274.
  - b. Within 45 days after the effective date of this Agreed Order, submit to the Commission a copy of the CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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 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



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. 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. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. 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.



Dwight Ball dba Lazy Acres Mobile Home Park  
DOCKET NO. 2008-0961-PWS-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.

*[Signature]*  
Signature

11-18-08  
Date

DWIGHT F BALL  
Name (Printed or typed)  
Authorized Representative of  
Dwight Ball dba Lazy Acres 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.

