

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-0969-WOC-E TCEQ ID: RN103243184 CASE NO.: 36028**

**RESPONDENT NAME: JOHN R. EGGEN**

|  |  |  |
|--|--|--|
| <b>ORDER TYPE:</b>   |  |  |
| <input type="checkbox"/> 1660 AGREED ORDER                 | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input checked="" 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 HAZARDOUS WASTE            |
| <input type="checkbox"/> PUBLIC WATER SUPPLY   | <input type="checkbox"/> PETROLEUM STORAGE TANKS            | <input checked="" 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 OCCURRED:** Cottonwood Creek Mobile Home Park, 404 Greene Road, Lancaster, Dallas County

**TYPE OF OPERATION:** Public water system

**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 on March 24, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Stephanie Frazee, Litigation Division, MC 175, (512) 239-3693  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Rebecca Clausewitz, Water Enforcement Section, MC R-13, (210) 403-4012

**TCEQ Regional Contact:** Mr. Sid Slocum, Dallas/Fort Worth Regional Office, R-4, (817) 588-5901

**Respondent:** Mr. John R. Eggen, 404 Greene Road, Lancaster, Texas 75146-6329

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

| VIOLATION SUMMARY CHART:   |  |   |
|--|--|---|
| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED   |
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date of Investigation Relating to this Case:</b><br/>                     March 13-14, 2008</p> <p><b>Date of NOE Relating to this Case:</b><br/>                     March 21, 2008</p> <p><b>Background Facts:</b><br/>                     The EDPRP was filed on October 28, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on October 30, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b><br/>                     Not yet in compliance.</p> <p><b>WOC:</b><br/>                     Failed to maintain a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water [TEX. WATER CODE § 37.003, TEX HEALTH &amp; SAFETY CODE § 341.034(b) and, 30 TEX. ADMIN. CODE §§ 30.5(a) and 30.381(b)].</p> | <p><b>Total Assessed:</b> \$328</p> <p><b>Total Deferred:</b> \$0<br/> <input type="checkbox"/> Expedited Order<br/> <input type="checkbox"/> Financial Inability to Pay<br/> <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$328</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b><br/>                     N/A</p> <p><b>Person Compliance History Classification</b><br/>                     N/A</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 Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately cease operating the water system until such time that an effective, valid Class "D" public water system operator license is obtained.</li> <li>2. Within 15 days, submit written certification to demonstrate compliance with the above Ordering Provision.</li> </ol> |



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

|              |          |            |           |             |         |  |
|--------------|----------|------------|-----------|-------------|---------|--|
| <b>DATES</b> | Assigned | 2-May-2008 | Screening | 20-May-2008 | EPA Due |  |
|              | PCW      | 9-Sep-2008 |           |             |         |  |

|  |                     |                    |       |
|--|---------------------|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                     |                    |       |
| Respondent                             | John R. Eggen       |                    |       |
| Reg. Ent. Ref. No.                     | RN103243184         |                    |       |
| Facility/Site Region                   | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

|                         |                           |                   |                    |
|-------------------------|---------------------------|-------------------|--------------------|
| <b>CASE INFORMATION</b> |                           |                   |                    |
| Enf./Case ID No.        | 36028                     | No. of Violations | 1                  |
| Docket No.              | 2008-0969-WOC-E           | Order Type        | 1660               |
| Media Program(s)        | All Occupational Licenses | Enf. Coordinator  | Rebecca Clausewitz |
| Multi-Media             |                           | EC's Team         | Enforcement Team 2 |
| Admin. Penalty \$       | Limit Minimum             | \$0               | Maximum            |
|                         |                           |                   | \$2,500            |

## Penalty Calculation Section

|   |                   |              |
|---|-------------------|--------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$250</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> | 0.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | <b>\$0</b> |
|---------------------------|------------------|--------------------------------|------------|

Notes: No enhancement is recommended due to a lack of compliance history.

|                    |    |                  |                   |            |
|--------------------|----|------------------|-------------------|------------|
| <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.

|                            |                   |                                   |            |
|----------------------------|-------------------|-----------------------------------|------------|
|                            | 0.0% Enhancement* | <b>Subtotal 6</b>                 | <b>\$0</b> |
| Total EB Amounts           | \$78              | *Capped at the Total EB \$ Amount |            |
| Approx. Cost of Compliance | \$70              |                                   |            |

|                             |                       |              |
|-----------------------------|-----------------------|--------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$250</b> |
|-----------------------------|-----------------------|--------------|

|   |       |                   |             |
|---|-------|-------------------|-------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 31.2% | <b>Adjustment</b> | <b>\$78</b> |
|---|-------|-------------------|-------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: The enhancement is recommended to recover the avoided costs of compliance.

|                             |              |
|-----------------------------|--------------|
| <b>Final Penalty Amount</b> | <b>\$328</b> |
|-----------------------------|--------------|

|                                   |                               |              |
|-----------------------------------|-------------------------------|--------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$328</b> |
|-----------------------------------|-------------------------------|--------------|

|                 |  |           |                   |            |
|-----------------|--|-----------|-------------------|------------|
| <b>DEFERRAL</b> |  | Reduction | <b>Adjustment</b> | <b>\$0</b> |
|-----------------|--|-----------|-------------------|------------|

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

Notes: Deferral not offered for non-expedited settlement.

|                        |              |
|------------------------|--------------|
| <b>PAYABLE PENALTY</b> | <b>\$328</b> |
|------------------------|--------------|

Screening Date 20-May-2008

Docket No. 2008-0969-WOC-E

PCW

Respondent John R. Eggen

Policy Revision 2 (September 2002)

Case ID No. 36028

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN103243184

Media [Statute] All Occupational Licenses

Enf. Coordinator Rebecca Clausewitz

## Compliance History Worksheet

## &gt;&gt; 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   | 0                 | 0%      |
| 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) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No enhancement is recommended due to a lack of compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

|  |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|--|--|---|----------------------|---------|----------------------|-----------|---|------------|----------------------|--------|----------------------|--------------|----------------------|--|
| <b>Screening Date</b> 20-May-2008  | <b>Docket No.</b> 2008-0969-WOC-E  | <b>PCW</b>  |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Respondent</b> John R. Eggen  |  | <i>Policy Revision 2 (September 2002)</i>                               |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Case ID No.</b> 36028   |  | <i>PCW Revision April 29, 2008</i>                                      |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Reg. Ent. Reference No.</b> RN103243184                               |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Media [Statute]</b> All Occupational Licenses                         |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Enf. Coordinator</b> Rebecca Clausewitz                               |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Violation Number</b> <input type="text" value="1"/>                   |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Rule Cite(s)</b>  | 30 Tex. Admin. Code §§ 30.5(a) and 30.381(b), Tex. Water Code § 37.003, and Tex. Health & Safety Code § 341.034(b)   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Violation Description</b>   | Failed to maintain a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water. Specifically, on the date of the investigation, the Respondent was operating the water system at Cottonwood Creek Mobile Home Park without the required operator license. The water system is required to be operated under the direct supervision of an operator with a valid Class "D" license; however, the Respondent's Class "D" license expired on October 28, 2006. |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | <b>Base Penalty</b>  | <input type="text" value="\$2,500"/>                                    |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>&gt;&gt; Environmental, Property and Human Health Matrix</b>          |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>OR</b>  | <b>Harm</b>  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | Release    Major    Moderate    Minor  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | Actual <input type="text"/> <input type="text"/> <input type="text"/>  | <b>Percent</b> <input type="text" value="0%"/>                          |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| Potential <input type="text"/> <input type="text"/> <input type="text"/> |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>&gt;&gt; Programmatic Matrix</b>                                      |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | <b>Falsification</b> Major    Moderate    Minor  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | <input type="text"/> <input checked="" type="text" value="x"/> <input type="text"/> <input type="text"/>   | <b>Percent</b> <input type="text" value="10%"/>                         |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Matrix Notes</b>  | 100% of the rule requirement was not met.  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | <b>Adjustment</b>  | <input type="text" value="\$2,250"/>                                    |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  |  | <input type="text" value="\$250"/>                                      |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Violation Events</b>  |  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Number of Violation Events</b>  | <input type="text" value="1"/>   | <input type="text" value="68"/> <b>Number of violation days</b>         |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <i>mark only one with an x</i>   | <table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="text" value="x"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>   | daily   | <input type="text"/> | monthly | <input type="text"/> | quarterly | <input checked="" type="text" value="x"/> | semiannual | <input type="text"/> | annual | <input type="text"/> | single event | <input type="text"/> | <b>Violation Base Penalty</b> <input type="text" value="\$250"/> |
| daily  | <input type="text"/>   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| monthly  | <input type="text"/>   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| quarterly  | <input checked="" type="text" value="x"/>  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| semiannual   | <input type="text"/>   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| annual   | <input type="text"/>   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| single event   | <input type="text"/>   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | One quarterly event is recommended, calculated from the date of the investigation, March 13, 2008, to the date of screening, May 20, 2008.   |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Economic Benefit (EB) for this violation</b>                          |  | <b>Statutory Limit Test</b>   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
| <b>Estimated EB Amount</b>   | <input type="text" value="\$78"/>  | <b>Violation Final Penalty Total</b> <input type="text" value="\$328"/> |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |
|  | <b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$328"/>  |   |                      |         |                      |           |   |            |                      |        |                      |              |                      |  |

## Economic Benefit Worksheet

**Respondent** John R. Eggen  
**Case ID No.** 36028  
**Reg. Ent. Reference No.** RN103243184  
**Media** All Occupational Licenses  
**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |  |  |  |      |     |     |     |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment                |  |  |  | 0.00 | \$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]    | \$70 | 28-Oct-2006 | 13-Mar-2008 | 2.29 | \$8 | \$70 | \$78 |
| Other (as needed)             |      |             |             | 0.00 | \$0 | \$0  | \$0  |

Notes for AVOIDED costs

The avoided cost includes the amount to renew a Class "D" water operator license, calculated from the date the license expired to the date of the investigation.

Approx. Cost of Compliance \$70

TOTAL \$78

# Compliance History

|   |   |                 |              |
|---|---|-----------------|--------------|
| Customer/Respondent/Owner-Operator:           | CN601763758 EGGEN, JOHN R                                     | Classification: | Rating:      |
| Regulated Entity:                             | RN103243184 EGGEN, JOHN R                                     | Classification: | Site Rating: |
| ID Number(s):                                 | WASTEWATER LICENSING  | LICENSE         | WW0030077    |
| Location:                                     | Cottonwood Creek MHP, 404 Greene Rd, Lancaster, Dallas County |                 |              |
| TCEQ Region:                                  | REGION 04 - DFW METROPLEX                                     |                 |              |
| Date Compliance History Prepared:             | June 10, 2008   |                 |              |
| Agency Decision Requiring Compliance History: | Enforcement   |                 |              |
| Compliance Period:                            | June 10, 2003 to June 10, 2008                                |                 |              |

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

Name: Rebecca Clausewitz Phone: (210) 403-4012

### 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 03/21/2008 (639194)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
JOHN R. EGGEN,  
RN103243184

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2008-0969-WOC-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is John R. Eggen ("Mr. Eggen").

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

**FINDINGS OF FACT**

1. Mr. Eggen operates a public water supply located at the Cottonwood Creek Mobile Home Park, 404 Greene Road, Lancaster, Dallas County, Texas (the "Facility").
2. The Facility has approximately seventy nine service connections, and it serves at least twenty five people per day for at least sixty days per year and provides water for human consumption. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During an investigation conducted from March 13, 2008, until March 14, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Mr. Eggen failed to maintain a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water. Specifically, on the date of the investigation, Mr. Eggen was operating the water system at Cottonwood Creek Mobile Home Park without the required operator license. The water system is required to be operated under the direct supervision of an operator with a

valid Class "D" license; however, Mr. Eggen's Class "D" license expired on October 26, 2006.

4. Mr. Eggen received notice of the violation on or about March 26, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of John R. Eggen" (the "EDPRP") in the TCEQ Chief Clerk's office on October 28, 2008.
6. By letter dated October 28, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Eggen with notice of the EDPRP. According to the return receipt "green card," Mr. Eggen received notice of the EDPRP on October 30, 2008, as evidenced by the signature on the card.
7. More than twenty days have elapsed since Mr. Eggen received notice of the EDPRP, provided by the Executive Director. Mr. Eggen failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Eggen is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Eggen failed to maintain a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water in violation of 30 TEX. ADMIN. CODE §§ 30.5(a) and 30.381(b), TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034(b).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Eggen with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Eggen has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a

Default Order against Mr. Eggen and assess the penalty recommended by the Executive Director.

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 Mr. Eggen for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of three hundred and twenty eight dollars (\$328.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053 and TEX. HEALTH & SAFETY CODE § 341.049(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Mr. Eggen is assessed an administrative penalty in the amount of three hundred and twenty eight dollars (\$328.00) for violations of TEX. WATER CODE ch. 37, TEX. HEALTH & SAFETY CODE ch. 341, and rules of the TCEQ. The payment of this administrative penalty and Mr. Eggen's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within thirty days after the effective date of this Order and shall be sent with the notation "Re: John R. Eggen; Docket No. 2008-0969-WOC-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. Mr. Eggen shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Mr. Eggen shall cease operating the water system until such time that an effective, valid Class "D" public water system operator license is obtained in accordance with 30 TEX. ADMIN. CODE §§ 30.5 and 30.381.
  - b. Within fifteen days after the effective date of this Order, Mr. Eggen shall submit written certification as described below and include detailed supporting documentation including receipts and/or 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 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

and:

Sid Slocum, Water Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon Mr. Eggen. Mr. Eggen is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Eggen shall be made in writing to the Executive Director. Extensions are not effective until Mr. Eggen receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Eggen if the Executive Director determines that Mr. Eggen has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEPHANIE J. FRAZEE**

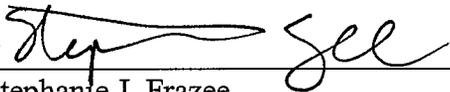
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of John R. Eggen” (the “EDPRP”) with the Office of the Chief Clerk on October 28, 2008.

I sent the EDPRP to Mr. Eggen at his last known address on October 28, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Eggen received notice of the EDPRP on October 30, 2008, as evidenced by the signature on the card.

More than twenty days have elapsed since Mr. Eggen received notice of the EDPRP. Mr. Eggen failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

  
\_\_\_\_\_  
Stephanie J. Frazee  
Attorney  
Texas Commission on Environmental Quality

Affidavit of Stephanie J. Frazee  
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Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 22<sup>nd</sup> day of January, A.D., 2008.

*Rochelle D. Collins*  
Notary Signature

Notary Stamp

