

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1829-PWS-E TCEQ ID: RN101653723 CASE NO.: 36835  
RESPONDENT NAME: LARRY O'NEILL DBA LAZY ACRES TRAILER PARK**

<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 checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

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

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

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired September 7, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

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

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

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

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 17, 2008</p> <p><b>Date of NOE Relating to this Case:</b> April 21, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed April 13, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. An EDFARP was filed May 14, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to answer either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>PWS:</b></p> <p>1. Failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008, and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p> <p>2. Failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].</p>	<p><b>Total Assessed:</b> \$ 6,286</p> <p><b>Total Deferred:</b> \$  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$ 6,286</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 Order.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> 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 Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 10 days:  a. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply; and</p> <p>b. Begin performing monthly distribution coliform sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan.</p> <p>2. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1.a. and 1.b.</p>

**VIOLATION SUMMARY CHART:**

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



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-Oct-2008	<b>Screening</b>	20-Nov-2008	<b>EPA Due</b>	7-May-2008
	<b>PCW</b>	21-Nov-2008				

## RESPONDENT/FACILITY INFORMATION

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

## CASE INFORMATION

<b>Enf./Case ID No.</b>	36835	<b>No. of Violations</b>	3
<b>Docket No.</b>	2008-1829-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,000**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **72.0%** Enhancement **Subtotals 2, 3, & 7** **\$2,160**

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

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

**Notes**  
The Respondent does not meet the culpability criteria.

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

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts **\$907**  
Approx. Cost of Compliance **\$825**

\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **21.8%** **Adjustment** **\$1,126**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

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

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

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

**Notes**  
No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$6,286**

**Screening Date** 20-Nov-2008

**Docket No.** 2008-1829-PWS-E

**PCW**

**Respondent** Larry O' Neill dba Lazy Acres Trailer Park

Policy Revision 2 (September 2002)

**Case ID No.** 36835

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101653723

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Amanda Henry

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	14	70%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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)** 72%

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

N/A

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

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

N/A

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

>> **Compliance History Summary**

**Compliance History Notes**

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

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

Screening Date 20-Nov-2008 Docket No. 2008-1829-PWS-E PCW  
 Respondent Larry O' Neill dba Lazy Acres Trailer Park Policy Revision 2 (September 2002)  
 Case ID No. 36835 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101653723  
 Media [Statute] Public Water Supply  
 Enf. Coordinator Amanda Henry

Violation Number

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

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

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				<input type="text" value="0%"/>

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

Adjustment

Violation Events

Number of Violation Events  Number of violation days

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

Violation Base Penalty

Eight monthly events are recommended.

Good Faith Efforts to Comply 0.0% Reduction

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

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

Violation Subtotal

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** Larry O' Neill dba Lazy Acres Trailer Park  
**Case ID No.** 36835  
**Reg. Ent. Reference No.** RN101653723  
**Media** Public Water Supply  
**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
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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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$375	1-May-2006	31-Mar-2008	2.84	\$53	\$375	\$428
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$375

TOTAL

\$428

<b>Screening Date</b> 20-Nov-2008	<b>Docket No.</b> 2008-1829-PWS-E	<b>PCW</b>	
<b>Respondent</b> Larry O' Neill dba Lazy Acres Trailer Park	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 36835	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101653723			
<b>Media [Statute]</b> Public Water Supply			
<b>Enf. Coordinator</b> Amanda Henry			
<b>Violation Number</b> 2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)		
<b>Violation Description</b>	Failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007.		
<b>Base Penalty</b>		\$1,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Potential</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>			25%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
<b>Percent</b>			0%
<b>Matrix Notes</b>	Failure to perform routine distribution coliform sampling of the public water supply could result in customers of the water supply being exposed to significant amounts of contamination, which would exceed levels that are protective of human health.		
<b>Adjustment</b>			\$750
			\$250
<b>Violation Events</b>			
<b>Number of Violation Events</b>	2	<b>Number of violation days</b>	62
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<input type="checkbox"/>	
	monthly	<input checked="" type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
Two monthly events are recommended.			\$500
<b>Good Faith Efforts to Comply</b>			\$0
0.0% Reduction			
Before NOV      NOV to EDPRP/Settlement Offer			
<b>Extraordinary</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Ordinary</b>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>N/A</b>	<input checked="" type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			\$500
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b>	\$241	<b>Violation Final Penalty Total</b>	\$1,048
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$1,048

## Economic Benefit Worksheet

**Respondent:** Larry O' Neill dba Lazy Acres Trailer Park  
**Case ID No.:** 36835  
**Reg. Ent. Reference No.:** RN101653723  
**Media:** Public Water Supply  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

Notes for DELAYED costs

### Avoided Costs

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

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

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$225

TOTAL

\$241

<b>Screening Date</b> 20-Nov-2008	<b>Docket No.</b> 2008-1829-PWS-E	<b>PCW</b>														
<b>Respondent</b> Larry O' Neill dba Lazy Acres Trailer Park	<i>Policy Revision 2 (September 2002)</i>															
<b>Case ID No.</b> 36835	<i>PCW Revision October 30, 2008</i>															
<b>Reg. Ent. Reference No.</b> RN101653723																
<b>Media [Statute]</b> Public Water Supply																
<b>Enf. Coordinator</b> Amanda Henry																
<b>Violation Number</b> 3																
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.109(c)(2)(F) and 290.122(c)(2)(A)															
<b>Violation Description</b>	Failed to collect a minimum of five routine distribution coliform samples during the month (November 2006 and March 2007) following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007. Specifically, only one routine sample was collected during November 2006 and March 2007.															
<b>Base Penalty</b>		\$1,000														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
<b>OR</b>	<b>Harm</b>															
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"><b>Release</b></td> <td style="width:15%;">Major</td> <td style="width:15%;">Moderate</td> <td style="width:15%;">Minor</td> <td style="width:40%;"></td> </tr> <tr> <td><b>Actual</b></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><b>Percent</b> <input type="text" value="25%"/></td> </tr> <tr> <td><b>Potential</b></td> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td></td> </tr> </table>	<b>Release</b>	Major	Moderate	Minor		<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="25%"/>	<b>Potential</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
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<b>Falsification</b>	Major	Moderate	Minor													
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>												
<b>Matrix Notes</b>	Failure to perform routine distribution coliform sampling of the public water supply and failure to provide public notification could result in customers of the water supply being exposed to significant amounts of contamination, which would exceed levels that are protective of human health.															
<b>Adjustment</b>		\$750														
		\$250														
<b>Violation Events</b>																
<b>Number of Violation Events</b>	<input type="text" value="2"/>	<input type="text" value="61"/> <b>Number of violation days</b>														
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="checkbox"/></td></tr> <tr><td>weekly</td><td><input type="checkbox"/></td></tr> <tr><td>monthly</td><td><input checked="" type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="checkbox"/></td></tr> <tr><td>annual</td><td><input type="checkbox"/></td></tr> <tr><td>single event</td><td><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	weekly	<input type="checkbox"/>	monthly	<input checked="" type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>	<b>Violation Base Penalty</b> <input type="text" value="\$500"/>
daily	<input type="checkbox"/>															
weekly	<input type="checkbox"/>															
monthly	<input checked="" type="checkbox"/>															
quarterly	<input type="checkbox"/>															
semiannual	<input type="checkbox"/>															
annual	<input type="checkbox"/>															
single event	<input type="checkbox"/>															
Two monthly events are recommended.																
<b>Good Faith Efforts to Comply</b>	<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"></td> <td style="width:50%; text-align: center;"><b>NOV to EDPRP/Settlement Offer</b></td> </tr> <tr> <td><b>Extraordinary</b></td> <td><input type="checkbox"/></td> </tr> <tr> <td><b>Ordinary</b></td> <td><input type="checkbox"/></td> </tr> <tr> <td><b>N/A</b></td> <td><input checked="" type="checkbox"/> (mark with x)</td> </tr> </table>		<b>NOV to EDPRP/Settlement Offer</b>	<b>Extraordinary</b>	<input type="checkbox"/>	<b>Ordinary</b>	<input type="checkbox"/>	<b>N/A</b>	<input checked="" type="checkbox"/> (mark with x)							
	<b>NOV to EDPRP/Settlement Offer</b>															
<b>Extraordinary</b>	<input type="checkbox"/>															
<b>Ordinary</b>	<input type="checkbox"/>															
<b>N/A</b>	<input checked="" type="checkbox"/> (mark with x)															
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.															
<b>Violation Subtotal</b>		\$500														
<b>Economic Benefit (EB) for this violation</b>																
<b>Estimated EB Amount</b>		<input type="text" value="\$238"/>														
<b>Statutory Limit Test</b>		<input type="text" value="\$1,048"/>														
<b>Violation Final Penalty Total</b>		\$1,048														
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,048														

## Economic Benefit Worksheet

**Respondent** Larry O' Neill dba Lazy Acres Trailer Park  
**Case ID No.** 36835  
**Reg. Ent. Reference No.** RN101653723  
**Media** Public Water Supply  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

### Avoided Costs

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

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

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$225

TOTAL

\$238

# Compliance History Report

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

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |    |            |          |
|----|------------|----------|
| 1  | 12/03/2003 | (432447) |
| 2  | 12/04/2003 | (432448) |
| 3  | 01/07/2004 | (432449) |
| 4  | 03/15/2006 | (454567) |
| 5  | 06/27/2006 | (433324) |
| 6  | 10/25/2006 | (537810) |
| 7  | 11/21/2006 | (538989) |
| 8  | 12/21/2006 | (539005) |
| 9  | 04/15/2007 | (644343) |
| 10 | 07/01/2007 | (644993) |
| 11 | 08/15/2007 | (645533) |
| 12 | 11/01/2007 | (646009) |
| 13 | 12/20/2007 | (611606) |
| 14 | 04/23/2008 | (653437) |
| 15 | 06/16/2008 | (682502) |
| 16 | 10/23/2008 | (706249) |

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

1 Date: 12/03/2003 (432447) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: Failure to collect any repeat samples in 10/2003 following a coliform found result.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: Failure to post a PN for not collecting any repeat samples in 10/2003 following a coliform found result.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: Failure to collect all of the 5 distribution samples in 11/2003 following a coliform found month.

2 Date: 12/04/2003 (432448) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
Description: Exceeded a maximum contaminant level (MCL) violation in 11/2003.

3 Date: 01/07/2004 (432449) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: Failure to collect all of the 5 distribution samples in 12/2003 following a coliform found month.

4 Date: 03/15/2006 (454567) CN603140112  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
Description: FAILURE TO PROVIDE ADEQUATE INTRUDER-RESISTANT FENCING.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description: FAILURE TO CALIBRATE THE WELL METER ONCE EVERY THREE YEARS  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: FAILURE TO PROVIDE A MICROBIOLOGICAL MONITORING PLAN

5 Date: 06/27/2006 (433324) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: Bact Monitoring 05/2006- Failure to collect a routine monitoring sample for 05/2006.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: Bact Public Notice 05/2006 - Failure to post PN for not collecting any routine monitoring sample(s) in 05/2006.

6 Date: 10/25/2006 (537810) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: Bact Monitoring 09/2006- Failure to collect a routine monitoring sample for 09/2006.

- 7 Date: 11/21/2006 (538989) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)  
Description: Bact Repeat Monitoring 10/2006 - Failure to collect repeat samples following a coliform found result in 10/2006.
- 8 Date: 12/21/2006 (539005) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)  
Description: Bact Increase Monitoring 11/2006 - Failure to collect all the 5 distribution samples following a coliform found month in 11/2006.
- 9 Date: 04/15/2007 (644343) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)  
Description: Bact Monitoring 03/2007 - Failure to collect any repeat samples following a coliform found result in 03/2007.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)  
Description: Bact Monitoring 03/2007 - Failure to collect all 5 distribution samples following a coliform found month in 03/2007.
- 10 Date: 08/15/2007 (645533) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: Bact Monitoring 07/2007 - Failure to collect a routine monitoring sample for 07/2007.
- 11 Date: 01/31/2008 (644343) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)  
Description: Bact Monitoring 10/2007 - Failure to collect a routine coliform sample for 10/2007.
- 12 Date: 02/14/2008 (646009) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: Bact Monitoring 11/2007 - Failure to collect a routine coliform sample for 11/2007.
- 13 Date: 02/21/2008 (646009) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: Bact Monitoring 12/2007 - Failure to collect a routine coliform sample for 12/2007.
- 14 Date: 04/16/2008 (646009) CN603140112  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)  
Description: Bact Monitoring 02/2008 - Failure to collect a routine coliform sample for 02/2008.

15 Date: 04/21/2008 (646009)

CN603140112

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: Bact Monitoring 03/2003 - Failure to collect a routine coliform sample for 03/2008.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
LARRY O'NEILL DBA LAZY  
ACRES TRAILER PARK;  
RN101653723

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2008-1829-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 7, 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 Larry O'Neill dba Lazy Acres Trailer Park ("the Respondent").

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

**FINDINGS OF FACT**

1. The Respondent owns and operates a mobile home park with a public water supply located at 8611 New Laredo Highway in San Antonio, Bexar County, Texas (the "Facility").
2. The Facility has 36 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).
3. During a record review conducted on April 17, 2008, a TCEQ Office investigator documented that the Respondent:
  - a. Failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008 and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008.

- b. Failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007.
  - c. Failed to collect a minimum of five routine distribution coliform samples during the month (November 2006 and March 2007) following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007.
4. The Respondent received notice of the violations on or about April 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 Larry O'Neill dba Lazy Acres Trailer Park" (the "EDPRP") in the TCEQ Chief Clerk's office on April 13, 2009.
6. By letter dated April 13, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served the Respondent with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since the Respondent received notice of the EDPRP, provided by the Executive Director. The Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
8. The Executive Director filed the "Executive Director's First Amended 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 Larry O'Neill dba Lazy Acres Trailer Park" (the "EDFARP") in the TCEQ Chief Clerk's office on May 14, 2009.
9. By letter dated May 14, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served the Respondent with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDFARP.

10. More than 20 days have elapsed since the Respondent received notice of the EDFARP, provided by the Executive Director. The Respondent failed to file an answer to the EDFARP, 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, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., the Respondent failed to collect routine distribution water samples for coliform analysis for the months of May 2006, September 2006, July 2007, October through December 2007, and February and March of 2008 and failed to provide public notification of the failure to collect routine distribution water samples for coliform analysis for the months of May 2006, July 2007, October through December of 2007, and February and March 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d),
3. As evidenced by Finding of Fact No. 3.b., the Respondent failed to collect and submit a minimum of four repeat distribution coliform samples within 24 hours after being notified of a total coliform-positive result on a routine sample found during the months of October 2006 and March 2007, and failed to provide public notice of the failure to collect all required repeat samples during the month of March 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).
4. As evidenced of Finding of Fact No. 3.c., the Respondent failed to collect a minimum of five routine distribution coliform samples during the month (November 2006 and March 2007) following a total coliform-positive result and failed to provide public notice of the failure to conduct proper distribution coliform sampling during the month of March 2007, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F) and 290.122(c)(2)(A).
5. As evidenced by Finding of Fact Nos. 5, 6, 8 and 9 the Executive Director timely served the Respondent with proper notice of the EDPRP and EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact Nos. 7 and 10, the Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against the Respondent and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.
8. An administrative penalty in the amount of six thousand two hundred eighty-six dollars (\$6,286.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in 30 TEX. ADMIN. CODE § 290.109(c)(2)(F) and 290.122(c)(2)(A), TEX. HEALTH & SAFETY CODE § 341.049.
9. 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. The Respondent is assessed an administrative penalty in the amount of six thousand two hundred eighty-six dollars (\$6,286.00) for violations of the Texas Water Code and Texas Health and Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and the Respondent'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 30 days after the effective date of this Order and shall be sent with the notation "Re: Larry O'Neill dba Lazy Acres Trailer Park; Docket No. 2008-1829-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 10 days after the effective date of this Order, the Respondent shall:
- i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, in accordance with 30 TEX. ADMIN. CODE § 290.122; and,
  - ii. Begin performing monthly distribution coliform sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written Sampling Monitoring Plan, as required by 30 TEX. ADMIN. CODE § 290.109.
- b. Within 15 days after the effective date of this Order, the Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No 2.a. to:

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

with a copy to:

Water Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon the Respondent. the Respondent 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 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this 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.

Larry O'Neill dba Lazy Acres Trailer Park  
Docket No. 2008-1829-PWS-E  
Page 7

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

## AFFIDAVIT OF JACQUELYN BOUTWELL

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Jacquelyn Boutwell. 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, 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 Larry O’Neill” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 13, 2009.

The EDPRP was mailed to the Respondent at his last known address on April 13, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since the Respondent received notice of the EDPRP. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended 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 Larry O’Neill” (the “EDFARP”) was filed with the Office of the Chief Clerk on May 14, 2009.

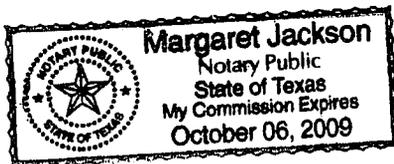
The EDFARP was mailed to the Respondent at his last known address on May 14, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that the Respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since the Respondent received notice of the EDFARP. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”

  
Jacquelyn Boutwell, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, 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 14 day of July A.D., 2009.



  
Notary Signature