

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2009-1040-PWS-E: TCEQ ID RN101245090: CASE NO.: 37905

RESPONDENT NAME: NORTHWIND PROPERTIES, LTD. DBA WESTFIELD GARDEN MOBILE HOME PARK

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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: 520 Gulf Bank Road, Houston, Harris County

TYPE OF OPERATION: Public water supply system

SMALL BUSINESS: Yes No N/A

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 December 21, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Epifanio Villareal, Water Enforcement Section, MC R-14 361 / 825-3425

TCEQ Regional Contact: Mr. Steve Smith, Houston Regional Office, MC R-12, (713) 767-3581

Respondents: Ms. Valerie Bovone, General Partner, Northwind Properties, Ltd., P. O. Box 7231, San Jose, California 95150;
Mr. John Bovone, General Partner, Northwind Properties, Ltd., 800 Brazos, Suite 400, Austin, Texas 78701

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

**RESPONDENT NAME: NORTHWIND PROPERTIES, LTD.
DBA WESTFIELD GARDEN MOBILE HOME PARK
DOCKET NO.: 2009-1040-PWS-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p>___ Complaint ___ Routine ___ Enforcement Follow-up <u>X</u> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 25, 2009</p> <p>Date of NOE Relating to this Case: July 16, 2009</p> <p>Background Facts: The EDRP was filed on September 25, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on October 15, 2009.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <p>1. Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute (“gpm”) per connection in the event of the loss of normal power supply, which is required for facilities that have no elevated storage and serve 250 or more service connections [30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2. Failed to provide well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface [30 TEX. ADMIN. CODE § 290.41(c)(3)(B)].</p>	<p>Total Assessed: \$385</p> <p>Total Deferred: \$0 ___ Expedited Order ___ Financial Inability to Pay ___ SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$385</p> <p>The Respondent paid the administrative penalty in full.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: ___ Yes <u>X</u> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 180 days:</p> <p>a. Increase the height of the well casing on Well No. 2 such that it is a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface; and</p> <p>b. Provide emergency power that will deliver water at a minimum of 0.35 gpm per connection.</p> <p>2. Within 195 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1.a. and 1.b.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	7-Jul-2009			
	PCW	15-Sep-2009	Screening	7-Jul-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Northwind Properties, LTD. dba Westfield Garden Mobile Home Park				
Reg. Ent. Ref. No.	RN101245090				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37905	No. of Violations	2		
Docket No.	2009-1040-PWS-E	Order Type	1660		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Epifanio Villarreal		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$350
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7	\$35
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Notes: The penalty enhancement is due to two prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,218
 Approx. Cost of Compliance: \$29,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$385
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$385**

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$385
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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.

PAYABLE PENALTY	\$385
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Screening Date 7-Jul-2009

Docket No. 2009-1040-PWS-E

PCW

Respondent Northwind Properties, LTD. dba Westfield Garden Mobile

Policy Revision 2 (September 2002)

Case ID No. 37905

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101245090

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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)	2	10%
	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%
<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) 10%

>> 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 two prior Notices of Violation ("NOVs") containing violations that are the same as the violations in the current enforcement.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 7-Jul-2009 **Docket No.** 2009-1040-PWS-E **PCW**
Respondent Northwind Properties, LTD. dba Westfield Garden Mobile Home P *Policy Revision 2 (September 2002)*
Case ID No. 37905 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101245090
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(D)(v) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply. Specifically, at the time of the record review, it was documented that the Facility failed to provide an emergency power source, such as a back-up generator, which is required for facilities that have no elevated storage and serves 250 or more service connections.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Without any emergency power, customers of the water supply could experience water outages and the Facility's ability to provide a safe and reliable water supply could be compromised.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 12 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended from the date of the record review, June 25, 2009, to the date of screening, July 7, 2009.

Good Faith Efforts to Comply 0.0% Reduction Before NOV NOV to ED/PRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$2,159 **Violation Final Penalty Total** \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent Northwind Properties, LTD. dba Westfield Garden Mobile Home Park

Case ID No. 37905

Reg. Ent. Reference No. RN101245090

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$28,000	25-Jun-2009	1-Aug-2010	1.10	\$103	\$2,056	\$2,159
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

The delayed cost includes the amount to provide sufficient emergency power to deliver a minimum of 0.35 gpm per connection, calculated from the date of the record review to the estimated date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$28,000	TOTAL	\$2,159
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Screening Date 7-Jul-2009 **Docket No.** 2009-1040-PWS-E **PCW**
Respondent Northwind Properties, LTD. dba Westfield Garden Mobile Home Park *Policy Revision 2 (September 2002)*
Case ID No. 37905 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101245090
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(3)(B)
Violation Description Failed to provide well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface. Specifically, it was noted that the casing on Well No. 2 is 6 inches tall.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent 10%	
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 0%

Matrix Notes Failure to provide a well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump room or natural ground surface, may allow the well to be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 12 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the record review, June 25, 2009, to the date of screening, July 7, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$59 **Violation Final Penalty Total** \$110

This violation Final Assessed Penalty (adjusted for limits) \$110

Economic Benefit Worksheet

Respondent Northwind Properties, LTD. dba Westfield Garden Mobile Home Park

Case ID No. 37905

Reg. Ent. Reference No. RN101245090

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	\$1,000	25-Jun-2009	1-May-2010	0.85	\$3	\$57	\$59
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

The delayed cost includes the amount to extend the casing a minimum of 18 inches above ground surface for Well No. 2, calculated from the date of the record review to the estimated date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,000

TOTAL \$59

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600681464 Northwind Properties, LTD.	Classification:	Rating:
Regulated Entity:	RN101245090 WESTFIELD GARDEN MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011947
	WATER LICENSING	LICENSE	1011947
Location:	520 GULF BANK RD, HARRIS COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	July 07, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 07, 2004 to July 07, 2009		

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

Name: Epi Villarreal Phone: 361-825-3425

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

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

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

N/A
- C. Chronic excessive emissions events.

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

1	01/23/2006	(450894)
2	06/02/2006	(480769)
3	03/27/2009	(739854)
4	07/01/2009	(760184)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/23/2006 (450894)	
Self Report?	NO
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)
Description:	Failure to provide a well casing 18 inches.
Self Report?	NO
Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
Description:	Failure to provide an operable high level forced draft ventilation fan.
Self Report?	NO
Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.108(b)(1)(B)
Description:	Failure to provide drinking water within the maximum permissible levels for the constituent gross alpha.
Self Report?	NO
Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(5)(B)
Description:	Failure to perform daily chlorine residual tests.

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(II)		
Description:	Failure to record the volume of water treated each day.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 291, SubChapter F 291.93(3)(A)		
Description:	Failure, by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria to submit to the executive director a planning report that explains how the retail public utility will provide the expected service.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to properly maintain the regulated entities by not: maintaining the emergency chlorine room entry air pack .		
Date:	03/27/2009 (739854)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v) 5A THSC Chapter 341, SubChapter A 341.0315(c)		
Description:	Failure to provide emergency power delivering water at a rate of 0.35 gallons per minute per connection to the distribution system in the event of the loss of normal power supply.		

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
NORTHWIND PROPERTIES, LTD.
DBA WESTFIELD GARDEN
MOBILE HOME PARK;
RN101245090**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1040-PWS-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Northwind Properties, LTD. dba Westfield Garden Mobile Home Park ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, appear before the Commission and together stipulate that:

1. Respondent owns and operates a public water supply system at 520 Gulf Bank Road, Houston, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has 314 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).
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. HEALTH & SAFETY CODE § 341.031 and TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of three hundred eighty-five dollars (\$385.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Respondent paid three hundred eighty-five dollars (\$385.00) of the administrative penalty.
6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Respondent agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During a record review conducted on June 25, 2009, a TCEQ Houston Regional Office investigator documented that Respondent violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 290.45(b)(1)(D)(v) and TEX. HEALTH & SAFETY CODE § 341.0315(c) by failing to provide emergency power that will deliver water at a rate of 0.35 gallons per minute ("gpm") per connection in the event of the loss of normal power supply. Specifically, at the time of the record review, it was documented that the Facility failed to provide an emergency power source, such as a back-up generator, which is required for facilities that have no elevated storage and serve 250 or more service connections; and

- b. 30 TEX. ADMIN. CODE § 290.41(c)(3)(B) by failing to provide well casing that extends a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface. Specifically, it was noted that the casing on Well No. 2 is six inches tall.
2. Respondent received notice of the violations on or about July 21, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Northwind Properties, LTD. dba Westfield Garden Mobile Home Park, Docket No. 2009-1040-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. Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Agreed Order:
 - i. Increase the height of the well casing on Well No. 2 such that it is a minimum of 18 inches above the elevation of the finished floor of the pump house or natural ground surface, in accordance with 30 TEX. ADMIN. CODE § 290.41; and

- ii. Provide emergency power that will deliver water at a minimum of 0.35 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.

- b. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification, as described below, and include supporting documentation, including photographs, 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.”

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Mr. Steve Smith , Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Northwind Properties, LTD. dba Westfield Garden Mobile Home Park
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SIGNATURE PAGE

12/18/2009

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

12/18/2009 1

For the Commission

[Handwritten Signature]

12/22/09

Date

For the Executive Director

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

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

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

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

Signature

[Handwritten Signature]

Date

12-18-09

Title

General Partner

Name (Printed or typed)

Authorized representative of

Northwind Properties, LTD. dba Westfield Garden Mobile Home Park