

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1082-PWS-E TCEQ ID: RN105744106 CASE NO.: 37941
RESPONDENT NAME: Z-Lab, Inc. dba Cypress Valley Canopy Tours

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Cypress Valley Canopy Tours, 1223 Paleface Ranch Road South, Spicewood, Travis County</p> <p>TYPE OF OPERATION: Outdoor recreational facility with a public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 18, 2009, alleging that the Respondent was utilizing a rain water collection system at the facility to supply water to the public restrooms. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. David C. Beilharz, Registered Agent, Z-Lab, Inc., 1223 Paleface Ranch Road, Spicewood, Texas 78669 Ms. Amy R. Beilharz, President, Z-Lab, Inc., 1223 Paleface Ranch Road, Spicewood, Texas 78669 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 18, 2009</p> <p>Date of Investigation Relating to this Case: June 5, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 10, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>1) Failure to submit and receive Commission approval of plans and specifications prior to commencing construction of a new public water system [30 TEX. ADMIN. CODE § 290.39(c) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a) and (c)].</p> <p>2) Failure to provide disinfection equipment so that disinfection occurs prior to distribution and continuous and effective disinfection of the water can be secured under all conditions [30 TEX. ADMIN. CODE § 290.42(e)(1) and (3)].</p>	<p>Total Assessed: \$350</p> <p>Total Deferred: \$70 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$280</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, submit to the Commission plans and specifications for the Facility that have been prepared by a licensed professional engineer;</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 150 days after the effective date of this Agreed Order, install disinfection equipment at the Facility so that disinfection occurs prior to distribution and continuous and effective disinfection of the water can be secured under all conditions; and</p> <p>d. Within 165 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision c.</p>

Additional ID No(s): None



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ DATES	Assigned	15-Jun-2009	Screening	3-Jul-2009	EPA Due	
	PCW	8-Jul-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Z-Lab, Inc. dba Cypress Valley Canopy Tours		
Reg. Ent. Ref. No.	RN105744106		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37941	No. of Violations	2
Docket No.	2009-1082-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		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
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7 \$0
Notes	No enhancement is recommended due to the lack of prior compliance history.	
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	\$465	
Approx. Cost of Compliance	\$7,000	
	*Capped at the Total EB \$ Amount	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$350
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes		
	Final Penalty Amount	\$350
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$350
DEFERRAL	20.0% Reduction	Adjustment -\$70
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$280

Screening Date 3-Jul-2009

Docket No. 2009-1082-PWS-E

PCW

Respondent Z-Lab, Inc. dba Cypress Valley Canopy Tours

Policy Revision 2 (September 2002)

Case ID No. 37941

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105744106

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

>> 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

No enhancement is recommended due to the lack of prior compliance history.

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

Screening Date 3-Jul-2009	Docket No. 2009-1082-PWS-E	PCW	
Respondent Z-Lab, Inc. dba Cypress Valley Canopy Tours	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37941	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN105744106			
Media [Statute] Public Water Supply			
Enf. Coordinator Rebecca Clausewitz			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 290.39(c) and (h)(1) and Tex. Health & Safety Code § 341.035(a) and (c)		
Violation Description	Failed to submit and receive Commission approval of plans and specifications prior to commencing construction of a new public water system. Specifically, it was noted on the date of the investigation that the Respondent began operating a rain water collection system that provides the water for a public restroom with a lavatory at the Facility prior to submitting and receiving Commission approval of all required plans and specifications for the system.		
Base Penalty		<input type="text" value="\$1,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="0%"/>
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
Percent			<input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirements were not met."/>		
Adjustment		<input type="text" value="\$900"/>	
Violation Events		<input type="text" value="\$100"/>	
Violation Events			
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="28"/>
		Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
<input type="text" value="One single event is recommended."/>			<input type="text" value="\$100"/>
Good Faith Efforts to Comply		<input type="text" value="\$0"/>	
		0.0% Reduction	
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal		<input type="text" value="\$100"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$315"/>	Violation Final Penalty Total
		<input type="text" value="\$100"/>	
		This violation Final Assessed Penalty (adjusted for limits)	
		<input type="text" value="\$100"/>	

Economic Benefit Worksheet

Respondent Z-Lab, Inc. dba Cypress Valley Canopy Tours
Case ID No. 37941
Reg. Ent. Reference No. RN105744106
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	5-Jun-2009	30-Apr-2010	0.90	\$15	\$300	\$315
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 estimated amount to prepare and submit plans and specifications for the rain water collection system that can be approved by the Commission, calculated from the date of the investigation to the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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: \$5,000 **TOTAL** \$315

Screening Date 3-Jul-2009	Docket No. 2009-1082-PWS-E																			
Respondent Z-Lab, Inc. dba Cypress Valley Canopy Tours	PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2009</i>																			
Case ID No. 37941																				
Reg. Ent. Reference No. RN105744106																				
Media [Statute] Public Water Supply																				
Enf. Coordinator Rebecca Clausewitz																				
Violation Number <input type="text" value="2"/>																				
Rule Cite(s)	30 Tex. Admin. Code §.290.42(e)(1) and (3)																			
Violation Description	Failed to provide disinfection equipment so that disinfection occurs prior to distribution and continuous and effective disinfection of the water can be secured under all conditions. Specifically, on the date of the investigation it was noted that there was no disinfection equipment installed with the rain water collection system and no disinfection was occurring prior to the water being distributed to the public restroom at the Facility.																			
Base Penalty	\$1,000																			
>> Environmental, Property and Human Health Matrix																				
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="4" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="25%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="border: 1px solid black; text-align: center;">x</td> <td style="border: 1px solid black;"></td> <td style="border: 1px solid black;"></td> </tr> </table>	Harm					Release	Major	Moderate	Minor		Actual				Percent <input type="text" value="25%"/>	Potential	x		
Harm																				
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Actual				Percent <input type="text" value="25%"/>																
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>> Programmatic Matrix																				
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="border: 1px solid black;"></td> <td style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> </table>	Falsification	Major	Moderate	Minor						Percent <input type="text" value="0%"/>									
Falsification	Major	Moderate	Minor																	
				Percent <input type="text" value="0%"/>																
Matrix Notes	Failure to disinfect the water could result in customers of the Facility being exposed to significant amounts of contaminants, which would exceed levels that are protective of human health.																			
Adjustment	\$750																			
	\$250																			
Violation Events																				
Number of Violation Events	1																			
Number of violation days	28																			
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">daily</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td style="border: 1px solid black; text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">single event</td> <td style="border: 1px solid black;"></td> </tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event						
daily																				
weekly																				
monthly	x																			
quarterly																				
semiannual																				
annual																				
single event																				
Violation Base Penalty	\$250																			
One monthly event is recommended, calculated from the date of the investigation, June 5, 2009, to the date of case screening, July 3, 2009.																				
Good Faith Efforts to Comply																				
Reduction	0.0%																			
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="border: 1px solid black;"></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="border: 1px solid black; text-align: center;">x (mark with x)</td> </tr> </table>	Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary		Ordinary		N/A	x (mark with x)											
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	\$250																			
Economic Benefit (EB) for this violation																				
Estimated EB Amount	\$150																			
Statutory Limit Test																				
Violation Final Penalty Total	\$250																			
This violation Final Assessed Penalty (adjusted for limits)																				
\$250																				

Economic Benefit Worksheet

Respondent Z-Lab, Inc. dba Cypress Valley Canopy Tours
Case ID No. 37941
Reg. Ent. Reference No. RN105744106
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,000	5-Jun-2009	30-Jun-2010	1.07	\$7	\$142	\$150
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 estimated amount to purchase and install disinfection equipment for the rain water collection system, including a chlorine pump, chemical tank for the pump, a backwashing tank, and a reverse osmosis drinking system, calculated from the date of the investigation, to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$150

Compliance History Report

Customer/Respondent/Owner-Operator: CN603492166 Z-Lab, Inc. Classification: Rating:
Regulated Entity: RN105744106 Cypress Valley Canopy Tours Classification: Site Rating:
ID Number(s):
Location: 1223 PALEFACE RANCH RD S, SPICEWOOD, TRAVIS COUNTY, TX
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: July 3, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 03, 2004 to July 03, 2009
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/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 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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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
Z-LAB, INC. DBA CYPRESS VALLEY
CANOPY TOURS
RN105744106

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1082-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Z-Lab, Inc. dba Cypress Valley Canopy Tours ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates an outdoor recreational facility with a public water supply at 1223 Paleface Ranch Road South in Spicewood, Travis County, Texas (the "Facility") that has one service connection and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 15, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Three Hundred Fifty Dollars (\$350) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Eighty Dollars (\$280) of the administrative penalty and Seventy Dollars (\$70) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to submit and receive Commission approval of plans and specifications prior to commencing construction of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(c) and (h)(1) and TEX. HEALTH & SAFETY CODE § 341.035(a) and (c), as documented during an investigation conducted on June 5, 2009.
2. Failed to provide disinfection equipment so that disinfection occurs prior to distribution and continuous and effective disinfection of the water can be secured under all conditions, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(1) and (3), as documented during an investigation conducted on June 5, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Z-Lab, Inc. dba Cypress Valley Canopy Tours, Docket No. 2009-1082-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 90 days after the effective date of this Agreed Order, submit to the Commission, plans and specifications for the Facility that have been prepared by a licensed professional engineer, in accordance with 30 TEX. ADMIN. CODE § 290.39. The submission shall be mailed to:

Utilities Technical Review Team
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a;
- c. Within 150 days after the effective date of this Agreed Order, install disinfection equipment at the Facility so that disinfection occurs prior to distribution and continuous and effective disinfection of the water can be secured under all conditions, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
- d. Within 165 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. 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 fines and imprisonment for knowing violations.

The certification shall be submitted to:

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

with a copy to:

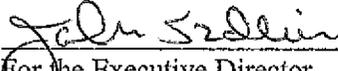
Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This 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 under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 12/8/2009

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

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

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

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


Signature

Date 10/1/09

Amy R Beilhartz
Name (Printed or typed)
Authorized Representative of
Z-Lab, Inc. dba Cypress Valley Canopy Tours

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

