

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-0790-MWD-E **TCEQ ID:** RN101194041 **CASE NO.:** 39696

**RESPONDENT NAME:** James Lewis Allen

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

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" 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:** Holiday Springs Mobile Home Park, located approximately 2.5 miles south of the intersection of Interstate Highway 20 and United States Highway 59, on the west side of United States Highway 59, Harrison County

**TYPE OF OPERATION:** Residential mobile home park with an associated wastewater treatment facility

**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 has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on September 20, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

**Respondent:** Mr. James Lewis Allen, Owner, Holiday Springs Mobile Home Park, 8285 United States Highway 59 South, Marshall, Texas 75672

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 20, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 6, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failed to comply with permitted effluent limits for biochemical oxygen demand and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014746001, Final Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$6,420</p> <p><b>Total Deferred:</b> \$1,284  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$236 (remaining \$4,900 due in 35 monthly payments of \$140 each)</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014746001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0014746001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	10-May-2010	<b>Screening</b>	17-May-2010	<b>EPA Due</b>	
	<b>PCW</b>	20-May-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	James Lewis Allen		
<b>Reg. Ent. Ref. No.</b>	RN101194041		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	39696	<b>No. of Violations</b>	1
<b>Docket No.</b>	2010-0790-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Prof</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Samuel Short
		<b>EC's Team</b>	Enforcement Team 3

<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000
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## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

Total EB Amounts	\$495	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 17-May-2010

Docket No. 2010-0790-MWD-E

PCW

Respondent James Lewis Allen

Policy Revision 2 (September 2002)

Case ID No. 39696

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101194041

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

### 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)	15	75%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 119%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for having 15 NOVs for self-reported effluent violations, two NOVs for non-similar violations, and two Agreed Orders with denial language within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 119%

Screening Date 17-May-2010

Docket No. 2010-0790-MWD-E

PCW

Respondent James Lewis Allen

Policy Revision 2 (September 2002)

Case ID No. 39696

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101194041

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014746001, Final Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on April 20, 2010 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand 5-Day ("BOD5") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS") were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 181 Number of violation days

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	0.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$495

Violation Final Penalty Total \$6,420

This violation Final Assessed Penalty (adjusted for limits) \$6,420

## Economic Benefit Worksheet

**Respondent** James Lewis Allen  
**Case ID No.** 39696  
**Reg. Ent. Reference No.** RN101194041  
**Media** Water Quality  
**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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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	28-Feb-2009	20-Feb-2011	1.98	\$495	n/a	\$495

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance. The final date is the expected 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

\$5,000

TOTAL

\$495

**Effluent Limit Violation Table**

Respondent James Lewis Allen  
 ID Number(s) TPDES Permit No. WQ0014746001; Case No. 39696  
 Docket Number 2010-0790-MWD-E  
 Enf. Coordinator Samuel Short

Corresponds to Violation Number: 1

**EFFLUENT PARAMETER**

*Permit Limit*

	BOD Daily Average Concentration	TSS Daily Average Concentration	TSS Single Grab Max. Concentration										
<i>Month/Year</i>	20 mg/L	20 mg/L	65 mg/L										
2/28/2009	c	23	c										
4/30/2009	c	22	c										
10/31/2009	c	25	c										
11/30/2009	23	27	c										
12/31/2009	29	30	c										
1/31/2010	21	51	76										

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
Biochemical Oxygen Demand	BOD
compliant	c
maximum	Max.



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602848665 ALLEN, JAMES LEWIS	Classification: AVERAGE	Rating: 2.65
Regulated Entity:	RN101194041 HOLIDAY SPRINGS MOBILE HOME PARK	Classification: AVERAGE	Site Rating: 2.65
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WASTEWATER WASTEWATER	REGISTRATION PERMIT EPA ID	1020028 WQ0014746001 TX0129127
Location:	LOCATED APPROXIMATELY 2.5 MILES SOUTH OF THE INTERSECTION OF INTERSTATE HIGHWAY 20 AND UNITED STATES HIGHWAY 59, ON THE WEST SIDE OF UNITED STATES HIGHWAY 59, HARRISON COUNTY, TEXAS		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	May 17, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 17, 2005 to May 17, 2010		

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

Name: Samuel Short Phone: (512) 239-5363

## 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 |
| 6. Rating Date: 9/1/2009 Repeat Violator: NO   |     |

### Components (Multimedia) for the Site :

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

Effective Date: 11/06/2008 ADMINORDER 2008-0770-MWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT  
 Description: Failure to comply with permit effluent limits.

Effective Date: 01/30/2009 ADMINORDER 2008-1131-PWS-E  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(E)(ii)  
 5A THSC Chapter 341, SubChapter A 341.0315(a)

Description: Failed to provide a pressure tank capacity of 50 gallons per connection.  
 Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)  
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi)  
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)

Description: Failed to maintain public water system operating records in an organized manner, with copies kept on file or stored electronically and made accessible for review during inspections.  
 Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
 Description: Failed to install all water system electrical wiring in compliance with a local or national electrical code.

Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
 Description: Failed to compile and maintain a plant operations manual.

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	06/10/2005	(395473)
2	08/03/2006	(488162)
3	11/19/2007	(634371)
4	12/17/2007	(634372)
5	01/17/2008	(678111)
6	02/21/2008	(678108)
7	04/07/2008	(678109)
8	04/07/2008	(678110)
9	04/21/2008	(696959)
10	05/01/2008	(641846)
11	05/19/2008	(696960)
12	05/21/2008	(696961)
13	06/20/2008	(718720)
14	06/25/2008	(682637)
15	07/21/2008	(718721)
16	08/20/2008	(718722)
17	09/15/2008	(718723)
18	09/30/2008	(733929)
19	10/20/2008	(733930)
20	11/24/2008	(708390)
21	12/15/2008	(721365)
22	12/22/2008	(733931)
23	12/22/2008	(733932)
24	12/31/2008	(733933)
25	01/16/2009	(722979)
26	02/24/2009	(757039)
27	03/23/2009	(773864)
28	04/16/2009	(721333)
29	04/22/2009	(773865)
30	05/21/2009	(773866)
31	06/24/2009	
32	07/31/2009	
33	08/18/2009	
34	09/23/2009	
35	10/20/2009	
36	11/20/2009	
37	11/05/2009	(777650)
38	11/24/2009	(782507)
39	12/19/2009	
40	01/16/2010	
41	02/07/2010	
42	03/20/2010	
43	04/07/2010	(761146)
44	05/07/2010	(799823)

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

Date: 06/16/2006 (488162) CN602848665  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(E)(ii)  
5A THSC Chapter 341, SubChapter A 341.0315(a)  
Description: Failed to provide a pressure tank capacity of 50 gallons per connection.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(vi)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)  
Description: Failed to maintain public water system operating records in an organized manner, with copies kept on file or stored electronically and made accessible for review during inspections.  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
 Description: Failed to install all water system electrical wiring in compliance with a local or national electrical code.  
 Date: 09/30/2007 (678110)  
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2007 (634371) CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 11/30/2007 (634372) CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/31/2007 (678111) Classification: Moderate  
 Self Report? YES  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 01/31/2008 (678108) CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/29/2008 (696959) CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 03/31/2008 (696960) CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 12/01/2008 (708390) CN602848665  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to make available sanitary control easements for the well at the time of inspection, or executive director approval for a substitute authorized in §290.41(c)(1)(F)(iv).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
 Description: Failure by the regulated entity to calibrate the well meters at least every three years.  
 Date: 12/31/2008 (733933)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 02/28/2009 (773864)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 04/30/2009 (773866) CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 10/31/2009 CN602848665  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2009 CN602848665  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2009 CN602848665  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2010 CN602848665  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2010 CN602848665  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

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  
JAMES LEWIS ALLEN  
RN101194041

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0790-MWD-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 James Lewis Allen ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a residential mobile home park with an associated wastewater treatment facility located approximately 2.5 miles south of the intersection of Interstate Highway 20 and United States Highway 59, on the west side of United States Highway 59 in Harrison County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. 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.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 11, 2010.
5. 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.
6. An administrative penalty in the amount of Six Thousand Four Hundred Twenty Dollars (\$6,420) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Hundred Thirty-Six Dollars (\$236) of the administrative penalty and One Thousand Two Hundred Eighty-Four Dollars (\$1,284) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Nine Hundred Dollars (\$4,900) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Forty Dollars (\$140) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. 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.
8. 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.
9. 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.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014746001, Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 20, 2010, and shown in the table below.

<i>EFFLUENT PARAMETER</i>			
<i>Permit Limit</i>			
	BOD Daily Average Concentration	TSS Daily Average Concentration	TSS Single Grab Max. Concentration
<i>Month/Year</i>	20 mg/L	20 mg/L	65 mg/L
2/28/2009	c	23	c
4/30/2009	c	22	c
10/31/2009	c	25	c
11/30/2009	23	27	c
12/31/2009	29	30	c
1/31/2010	21	51	76

Name	Abbreviation
milligrams per liter	mg/L
total suspended solids	TSS
Biochemical Oxygen Demand	BOD
compliant	c
maximum	Max.

**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 6 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: James Lewis Allen, Docket No. 2010-0790-MWD-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, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014746001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting

documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. 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  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

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. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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.
6. 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.

7. 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.
8. 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

John Sedler  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 8/23/2010

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.

James Lewis Allen  
\_\_\_\_\_  
Signature

July 16, 2010  
\_\_\_\_\_  
Date

James Lewis Allen  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
James Lewis Allen

OWNER  
\_\_\_\_\_  
Title

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