

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1675-PWS-E RN101212546 CASE NO. 38533
RESPONDENT NAME: STIFF CREEK MOBILE HOME PARK, L.P.

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

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: Intersection of FM 1827 and CR 466, Collin County

TYPE OF OPERATION: Mobile home park

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 Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired September 6, 2010. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Mr. Marshall Coover, Litigation Division, MC 175, (512) 239-0620
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Section, MC R-9, (254) 761-3034
TCEQ Regional Contact: Mr. Sid Slocum, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5901
Respondent: Mr. Mark Ragon, General Partner, Stiff Creek Mobile Home Park, L.P., 2252 East University Drive, McKinney, Texas 75069
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint: None</p> <p>Date of Investigation: August 1, 2009</p> <p>Date of NOE: August 27, 2009</p> <p>Background Facts: The EDPRP was filed on February 5, 2010. Respondent filed an answer and the case was referred to SOAH. On May 21, 2010, the TCEQ Chief Clerk mailed the Notice of the June 24, 2010 preliminary hearing to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the preliminary hearing on May 24, 2010. Respondent failed to appear at the June 24, 2010 preliminary hearing. The ALJ remanded the matter to the ED so the case may be disposed of on a default basis.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the month of May 2008 and failed to provide public notice of the exceedences for the month of May 2008 [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a)]. Failed to collect at least five routine distribution coliform samples during the month of June 2008 following a total coliform-positive sample result, and failed to provide public notice of the failure to collect the June 2008 samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)]. Failed to collect and submit routine distribution coliform samples for the months of July 2008 through June 2009, and failed to provide public notice of the failure to collect routine samples for the months of July 2008 through June 2009 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)]. 	<p>Total Assessed: \$6,904</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$6,904</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Compliance History Classifications: N/A</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>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 10 days, begin complying with applicable coliform monitoring requirements, including collecting routine coliform distribution samples and provide water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring. Within 195 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Sep-2009	Screening	8-Oct-2009	EPA Due	
	PCW	10-Nov-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Stiff Creek Mobile Home Park, L.P.				
Reg. Ent. Ref. No.	RN101212546				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	38533	No. of Violations	3	
Docket No.	2009-1675-PWS-E	Order Type	Findings	
Media Program(s)	Public Water Supply	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Heather Brister	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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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	70.0% Enhancement	Subtotals 2, 3, & 7	\$2,450
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Notes: The penalty enhancement is due to 14 prior NOV's for the same or similar violations as those in the current enforcement action.

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	\$954	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$875	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,950
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OTHER FACTORS AS JUSTICE MAY REQUIRE	16.0%	Adjustment	\$954
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for recovery of avoided costs of compliance.

Final Penalty Amount	\$6,904
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,904
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$6,904
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Screening Date 8-Oct-2009

Docket No. 2009-1675-PWS-E

PCW

Respondent Stiff Creek Mobile Home Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38533

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212546

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

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 <i>(number of NOVs meeting criteria)</i>	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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) 70%

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

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty enhancement is due to 14 prior NOVs for the same or similar violations as those in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date 8-Oct-2009

Docket No. 2009-1675-PWS-E

PCW

Respondent Stiff Creek Mobile Home Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38533

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212546

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the month of May 2008 and failed to provide public notice of the exceedences for the month of May 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes The presence of coliform bacteria is an indication that the water supply is contaminated with significant amounts of total coliform that do not exceed levels that are not protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 31 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.

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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$132

Violation Final Penalty Total \$493

This violation Final Assessed Penalty (adjusted for limits) \$493

Economic Benefit Worksheet

Respondent Stiff Creek Mobile Home Park, L.P.
Case ID No. 38533
Req. Ent. Reference No. RN101212546
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-May-2008	30-Jun-2008	1.08	\$7	\$125	\$132
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include additional oversight to properly treat the water to prevent the total coliform exceedance (\$100) and the amount to provide public notice (\$25) of the exceedance, calculated for the month in which the coliform MCL was exceeded, May 2008.

Approx. Cost of Compliance

\$125

TOTAL

\$132

Screening Date 8-Oct-2009

Docket No. 2009-1675-PWS-E

PCW

Respondent Stiff Creek Mobile Home Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38533

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212546

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)

Violation Description Failed to collect at least five routine distribution coliform samples during the month following a total coliform-positive sample result and failed to provide public notice of the failure to conduct bacteriological sampling for the month of June 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Failure to properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 30 Number of violation days

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event).

Violation Base Penalty \$250

One monthly event is recommended, calculated for the month in which the sampling was not done.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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 \$166

Violation Final Penalty Total \$493

This violation Final Assessed Penalty (adjusted for limits) \$493

Economic Benefit Worksheet

Respondent Stiff Creek Mobile Home Park, L.P.
Case ID No. 38533
Req. Ent. Reference No. RN101212546
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Jun-2008	30-Jul-2009	2.08	\$16	\$150	\$166
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount necessary (\$25 x 5 samples + \$25 x 1 public notice) to collect five routine coliform samples for the month of June 2008; and to provide public notification of the failure to collect five routine samples for the month of June 2008.

Approx. Cost of Compliance

\$150

TOTAL

\$166

Screening Date 8-Oct-2009

Docket No. 2009-1675-PWS-E

PCW

Respondent Stiff Creek Mobile Home Park, L.P.

Policy Revision 2 (September 2002)

Case ID No. 38533

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212546

Media [Statute] Public Water Supply

Enf. Coordinator Heather Brister

Violation Number 3

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

Violation Description Failed to collect and submit routine distribution coliform samples for the months of July 2008 through June 2009 and did not provide public notice of the failure to collect routine samples for the months of July 2008 through June 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Failure to perform routine bacteriological sampling could result in the public being exposed to significant amounts of undetected contaminants in the drinking water which could exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 12 Number of violation days 364

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Twelve monthly events are recommended, calculated for the months in which samples were not taken.

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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$656

Violation Final Penalty Total \$5,918

This violation Final Assessed Penalty (adjusted for limits) \$5,918

Economic Benefit Worksheet

Respondent Stiff Creek Mobile Home Park, L.P.

Case ID No. 38533

Req. Ent. Reference No. RN101212546

Media Public Water Supply

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	1-Jul-2008	30-Jun-2009	1.92	\$29	\$300	\$329
Other (as needed)	\$300	31-Aug-2008	31-Jul-2009	1.83	\$27	\$300	\$327

Notes for AVOIDED costs

The avoided costs include the estimated amount to conduct monthly coliform sampling calculated for the months when the violation occurred. The avoided costs for public notice includes the estimated amount to post a notice calculated during the time periods that that the Respondent had the opportunity to issue the notice.

Approx. Cost of Compliance

\$600

TOTAL

\$656

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603507781	STIFF CREEK MOBILE HOME PARK, L.P.	Classification:	Rating:
Regulated Entity:	RN101212546	STIFF CREEK MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	0430073
Location:	AT THE INTERSECTION OF FM 1827 & CR 466, COLLIN COUNTY, TEXAS			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	October 06, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 06, 2004 to October 06, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Heather Brister	Phone:	254-761-3034	

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 | 11/28/2006 | (513264) |
| 2 | 08/21/2009 | (761802) |
| 3 | 08/24/2009 | (766876) |
| 4 | 08/24/2009 | (766893) |
| 5 | 08/24/2009 | (766910) |
| 6 | 08/24/2009 | (766922) |
| 7 | 08/24/2009 | (766923) |
| 8 | 08/24/2009 | (766924) |
| 9 | 08/24/2009 | (766925) |
| 10 | 08/24/2009 | (766928) |
| 11 | 08/24/2009 | (766931) |
| 12 | 08/24/2009 | (766936) |
| 13 | 08/24/2009 | (766939) |
| 14 | 08/24/2009 | (766942) |
| 15 | 08/24/2009 | (766943) |
| 16 | 09/20/2009 | (767294) |

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

- | | | | | |
|---|-------------------------|--|--------------------|----------|
| 1 | Date: 06/02/2008 | (761802) | CN603507781 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(3) | | |
| | Description: | TCR MCL Violation 05/2008 - System exceeded a Maximum Contaminant Level Violation. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A) | | |
| | Description: | TCR PN MCL Violation 05/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation. | | |
| | | | | |
| 2 | Date: 07/31/2008 | (766876) | CN603507781 | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F) | | |
| | Description: | TCR Increase Monitoring Violation 06/2008 - Failure to collect any of the 5 distribution samples following a coliform found month. | | |
| | Self Report? | NO | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) | | |
| | Description: | TCR PN Increase Monitoring Violation 06/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month. | | |

- 3 Date: **09/03/2008** (766893) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 4 Date: **10/10/2008** (766910) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 5 Date: **11/19/2008** (766922) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 6 Date: **12/09/2008** (766923) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 7 Date: **01/13/2009** (766924) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 8 Date: **03/09/2009** (766925) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).
- 9 Date: **04/07/2009** (766928) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

10 Date: **05/06/2009** (766931) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring

11 Date: **05/26/2009** (766936) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

12 Date: **06/15/2009** (766939) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 04/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

13 Date: **07/14/2009** (766942) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

14 Date: **08/04/2009** (766943) **CN603507781**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 06/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

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
STIFF CREEK MOBILE
HOME PARK, L.P.;
RN101212546**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2009-1675-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Stiff Creek Mobile Home Park, L.P. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system at a mobile home park located at the intersection of FM 1827 and CR 466, Collin County, Texas (the "Facility"). The Facility has 18 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 system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on August 1, 2009, TCEQ Central Office staff documented that Respondent:
 - a. Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the month of May 2008 and failed to provide public notice of the exceedences for the month of May 2008;
 - b. Failed to collect at least five routine distribution coliform samples during the month of June 2008 following a total coliform-positive sample result, and failed to provide public notice of the failure to collect the June 2008 samples; and
 - c. Failed to collect and submit routine distribution coliform samples for the months of July 2008 through June 2009, and failed to provide public notice of the failure to collect routine samples for the months of July 2008 through June 2009.
3. Respondent received notice of the violations on or about September 1, 2009.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain

Actions of Stiff Creek Mobile Home Park, L.P." (the "EDPRP") in the TCEQ Chief Clerk's office on February 5, 2010.

5. By letter dated February 5, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on February 8, 2010, as evidenced by the signature on the card.
6. Respondent filed an answer requesting a hearing on April 9, 2010, and, pursuant to 30 Tex. Admin. Code § 70.109, the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 12, 2010.
7. On May 21, 2010, the TCEQ Chief Clerk mailed the Notice of the June 24, 2010, preliminary hearing to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received the Notice on May 24, 2010.
8. On June 24, 2010, the Administrative Law Judge ("ALJ") convened the preliminary hearing, but Respondent failed to appear. The ALJ entered a finding that Respondent was served with proper notice of the preliminary hearing, and the Executive Director requested that the matter be remanded to the Executive Director so that a Default Order may be entered and the case may be dismissed from the SOAH docket.
9. The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Granting Motion to Dismiss and Remand, on July 9, 2010, so that TCEQ may dispose of the case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with the MCL for total coliform for the month of May 2008 and failed to provide public notice of the exceedences for the month of May 2008, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect at least five routine distribution coliform samples during the month following a total coliform-positive sample result, and failed to provide public notice of the failure to collect the June 2008 samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect and submit routine distribution coliform samples for the months of July 2008 through June 2009, and failed to provide public notice of the failure to collect routine samples for the months of July 2008 through June 2009, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).

6. As evidenced by Finding of Fact No. 6, Respondent filed an answer requesting a hearing as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 30 TEX. ADMIN. CODE § 70.109.
7. As evidenced by Finding of Fact No. 7, Respondent was provided proper notice of the preliminary hearing pursuant to TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE § 155.501(c) and (e)(2), and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.425, 70.104, and 80.6(b)(3).
8. As evidence by Findings of Fact Nos. 8 and 9, Respondent failed to appear for the preliminary hearing and, pursuant to TEX. GOV'T CODE § 2001.056, TEX. WATER CODE § 7.057, 1 TEX. ADMIN. CODE § 155.501(e)(1)(A), and 30 TEX. ADMIN. CODE § 70.106(b), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of six thousand nine hundred four dollars (\$6,904.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of six thousand nine hundred four dollars (\$6,904.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Stiff Creek Mobile Home Park, L.P.; Docket No. 2009-1675-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

3. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Order, Respondent shall begin complying with applicable coliform monitoring requirements, including collecting all required routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting.
 - b. Within 195 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 3.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 Ordering Provision No. 3.a. to:

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

with a copy to:

Manager, Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARSHALL COOVER

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Stiff Creek Mobile Home Park, L.P.” (the “EDPRP”) was filed with the Office of the Chief Clerk on February 5, 2010

The EDPRP was mailed to Respondent at its last known address on February 5, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Respondent received notice of the EDPRP on February 8, 2010, as evidenced by the signature on the card.

Respondent filed an answer requesting a hearing on April 9, 2010, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on May 12, 2010.

Notice of the June 24, 2010 preliminary hearing was mailed to Respondent by the TCEQ Chief Clerk on May 21, 2010. The Notice was sent to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Respondent received the Notice of the Preliminary Hearing on May 24, 2010.

Respondent failed to appear at the preliminary hearing on June 24, 2010. At that hearing, I requested and received a finding that Respondent was served with proper notice of the hearing pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(2). I also requested and received a remand from the Administrative Law Judge pursuant to 1 TEX. ADMIN. CODE § 155.501(e)(1), which gives an ALJ the authority to remand the case back to the agency “to allow the agency to dispose of the case on a default basis under TEX. GOV’T CODE § 2001.056 and the referring agency’s rules.” Pursuant to TEX. GOV’T CODE § 2001.056, TEX. WATER CODE § 7.057, and 30 TEX. ADMIN. CODE 70.106(b), the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.



Marshall Coover, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Marshall Coover, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 19th day of July, A.D., 2010.



Notary Signature

