

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1442-MWD-E TCEQ ID: RN101266922 CASE NO.: 38310
RESPONDENT NAME: K. & H Holdings, LLC

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 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
<p>SITE WHERE VIOLATION(S) OCCURRED: Country Ridge Mobile Home Park, 10100 Jacksboro Highway, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Mobile home park with unauthorized on-site sewage facilities ("OSSF")</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 22, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Christian E. Hansen, Owner, K & H Holdings, LLC, P.O. Box 1197, Los Altos, California 94023 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 type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 24, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to obtain proper authorization for the treatment and disposal of domestic wastewater. Specifically, the Site contains one or more OSSF systems that cumulatively treat and dispose of more than 5,000 gallons of sewage per day on one piece of property [30 TEX. ADMIN. CODE §§ 285.3(g)(1), 305.42(a), and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$3,540</p> <p>Total Deferred: \$708 <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: \$2,832</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" 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 30 days after the effective date of this Agreed Order, submit an administratively complete permit application;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing;</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a;</p> <p>d. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and</p> <p>e. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and d.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2009

DATES	Assigned PCW	27-Jul-2009	Screening	12-Aug-2009	EPA Due	
		12-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	K & H Holdings, LLC		
Reg. Ent. Ref. No.	RN101286922		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38310	No. of Violations	1
Docket No.	2009-1442-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lauren Smitherman
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

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 Enhancement Subtotals 2, 3, & 7

Notes:

Culpability Enhancement Subtotal 4

Notes:

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

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 12-Aug-2009

Docket No. 2009-1442-MWD-E

PCW

Respondent K & H Holdings, LLC

Policy Revision 2 (September 2002)

Case ID No. 38310

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101266922

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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)	1	5%
	Other written NOVs	6	12%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	1	35%
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) 77%

>> **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

The penalty is enhanced due to one final court order without a denial of liability, one final enforcement order without a denial of liability, one NOV with same or similar violations as those cited in this action and six NOVs with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 77%

Screening Date 12-Aug-2009	Docket No. 2009-1442-MWD-E	PCW		
Respondent K & H Holdings, LLC		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 38310		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101268922				
Media [Statute] Water Quality				
Enf. Coordinator Lauren Smitherman				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code §§ 285.3(g)(1), 305.42(a), and Tex. Water Code § 28.121(a)			
Violation Description	Failed to obtain proper authorization for the treatment and disposal of domestic wastewater. Specifically, the Site contains one or more on-site sewage systems that cumulatively treat and dispose of more than 5,000 gallons of sewage per day on one piece of property, as documented during a record review conducted on July 9, 2009.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	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"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
Matrix Notes	100% of rule requirement was not met.			
		Adjustment	<input type="text" value="\$9,000"/>	
			<input type="text" value="\$1,000"/>	
Violation Events				
	Number of Violation Events	<input type="text" value="2"/>	Number of violation days	<input type="text" value="34"/>
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input checked="" type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
			Violation Base Penalty	<input type="text" value="\$2,000"/>
	Two monthly events are recommended from the record review date (July 9, 2009) to the screening date (August 12, 2009).			
Good Faith Efforts to Comply				
	<input type="text" value="0.0%"/>	Reduction		<input type="text" value="\$0"/>
	Before NOV	NOV to EDCRP/Sellment Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	<input checked="" type="text" value="x"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
		Violation Subtotal	<input type="text" value="\$2,000"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$399"/>	Violation Final Penalty Total	<input type="text" value="\$3,540"/>
		This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$3,540"/>

Economic Benefit Worksheet

Respondent K & H Holdings, LLC
Case ID No. 38310
Reg. Ent. Reference No. RN101266922
Media Water Quality
Violation No. 1

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

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	\$5,000	26-Jan-2009	31-Aug-2010	1.69	\$399	\$399
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of preparing and submitting a new permit application to obtain authorization to discharge wastewater. Date required is the initial investigation date and 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

\$399

Compliance History Report Pending

Customer/Respondent/Owner-Operator: CN603159021 K & H Holdings, LLC Classification: AVERAGE Rating: 20.00
Regulated Entity: RN101266922 COUNTRY RIDGE MOBILE HOME PARK Classification: AVERAGE Site Rating: 20.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2200146
Location: 10100 JACKSBORO HWY, FORT WORTH, TARRANT CO, TX

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 18, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 18, 2004 to September 18, 2009

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

Name: Lauren Smitherman Phone: 512-239-5223

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? Yes
3. If Yes, who is the current owner/operator? OWNOPR K & H Holdings, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWNOPR HOLLAND, STAN T
5. When did the change(s) in owner or operator occur? 06/20/2006 OWNOPR HOLLAND, STAN T
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: 11/07/2006

COURTORDER

Classification: Minor

Citation: 30 TAC Chapter 285, SubChapter A 285.3(d)

Description: Operating a wastewater treatment facility which produced more than 5,000 gallons of waste per day without a TNRCC permit.

Classification: Minor

Citation: TWC Chapter 26 26.121

Description: Allowed unauthorized discharges of wastewater into a nearby creek via a hose running from the septic tank serving mobile home Lot No. 9 to the creek.

Classification: Minor

Citation: 5A THC Chapter 341, SubChapter A 341.041

Description: Failure to pay Public Health Service fees for fiscal year 1996 through 1999.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(G)

Description: Failure to take bact samples at frequency required.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(g)

Description: Failure to properly notify public due to coliform found samples or failure to sample for coliform as required.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)

30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to maintain a pressure at least 35 psi.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to have facilities to maintain the air-water ratio in the small pressure tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)

Description: Failure to provide a monthly operating report.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description: Failure to provide an up-to-date map of the distribution system.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121

Description: Failure to provide an adequate monitoring plan.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to provide a plant operations manual.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failure to conduct annual tank inspections for all three pressure tanks.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)

Description: Failure to provide well drillers logs for well #1 (G2200146A), the most eastern well behind the ground storage tank, and well #4 (G2200146D) located behind lot 5.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(F)(iii)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide two or more service pumps with a total rated capacity of 2.0 gallons per minute per connection.

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: 2 ORDER

Description: Failure to comply with Commission Order Docket # 1998-1132-MWD-E.

Effective Date: 08/31/2007

ADMINORDER 2006-0246-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the Maximum Contaminant Level (MCL) for total coliform during June of 2005.

Classification: Moderate

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

Description: Failure to provide public notice for exceeding the Maximum Contaminant Level (MCL) for total coliform in June 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: Failure to collect all required repeat samples in July 2005 following each total coliform-positive result found on a routine sample that month.

Classification: Moderate

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

Description: Failure to provide public notice for not collecting all required repeat samples in July 2005 following a total coliform-positive result.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the Maximum Contaminant Level (MCL) for total coliform in July 2005.

Classification: Moderate

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

Description: Failure to provide public notice for exceeding the Maximum Contaminant Level (MCL) for total coliform in July 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect any of the distribution samples in August 2005 following total coliform-positive results the preceding month.

Classification: Moderate

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

Description: Failure to provide public notice for failing to collect any distribution samples in August 2005 following total coliform-positive results the previous month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: Failure to conduct routine bacteriological monitoring of the public water supply in October 2005.

Classification: Moderate

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

Description: Failure to provide public notice for failing to perform routine bacteriological monitoring of the public water supply in October 2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: Failure to conduct routine bacteriological monitoring of the public water supply in November 2005.

Classification: Moderate

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

Description: Failure to provide public notice for failing to conduct routine bacteriological monitoring of the public water supply in November 2005.

Classification: Moderate

Citation: 2A TWC Chapter 5, SubChapter A 5.702

30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: Failure to pay all Public Health Service annual and late fees for TCEQ Financial Administration Account No. 92200146 in a timely manner. There are currently outstanding annual and late fees covering Fiscal Years 2000 through 2006.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/17/2004	(344567)	8	12/21/2005	(453224)
2	02/11/2005	(345831)	9	01/13/2006	(439570)
3	06/15/2005	(435857)	10	02/02/2006	(453285)
4	07/08/2005	(453210)	11	06/10/2009	(640997)
5	08/25/2005	(453196)	12	07/21/2009	(761700)
6	10/03/2005	(453214)			
7	12/01/2005	(453219)			

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

Date: 06/15/2005 (435857)

CN603159021

N/A Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the Maximum Contaminant Level (MCL) for total coliform during June of 2005.

Self Report? NO

Classification: Moderate

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

Description: Failure to provide public notice for exceeding the Maximum Contaminant Level (MCL) for total coliform in June 2005.

Date: 07/08/2005 (453210)

CN603159021

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the Maximum Contaminant Level (MCL) for total coliform in July 2005.

Self Report? NO

Classification: Moderate

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

Description: Failure to provide public notice for exceeding the Maximum Contaminant Level (MCL) for total coliform in July 2005.

Date: 08/25/2005 (453196)

CN603159021

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: Failure to collect all required repeat samples in July 2005 following each total coliform-positive result found on a routine sample that month.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide public notice for not collecting all required repeat samples in July 2005 following a total coliform-positive result.

Date: 10/03/2005 (453214) CN603159021

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect any of the distribution samples in August 2005 following total coliform-positive results the preceeding month.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide public notice for failing to collect any distribution samples in August 2005 following total coliform-positive results the previous month.

Date: 12/01/2005 (453219) CN603159021

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: Failure to conduct routine bacteriological monitoring of the public water supply in October 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide public notice for failing to perform routine bacteriological monitoring of the public water supply in October 2005.

Date: 12/21/2005 (453224) CN603159021

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: Failure to conduct routine bacteriological monitoring of the public water supply in November 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to provide public notice for failing to conduct routine bacteriological monitoring of the public water supply in November 2005.

Date: 01/26/2009 (723465)

Self Report? NO Classification: Major
Citation: TWC Chapter 26 26.121

Description: Failure to obtain a permit to operate a wastewater treatment facility which treats more than 5,000 gallons per day on one piece of property.

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
K & H HOLDINGS, LLC
RN101266922

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1442-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 K & H Holdings, LLC ("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 mobile home park with unauthorized on-site sewage facilities ("OSSF") located at 10100 Jacksboro Highway in Fort Worth, Tarrant County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 July 29, 2009.
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 Three Thousand Five Hundred Forty Dollars (\$3,540) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Thousand Eight Hundred Thirty-Two Dollars (\$2,832) of the administrative penalty and Seven Hundred Eight Dollars (\$708) 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.

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 Site, the Respondent is alleged to have failed to obtain proper authorization for the treatment and disposal of domestic wastewater, in violation of 30 TEX. ADMIN. CODE §§ 285.3(g)(1), 305.42(a), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on July 9, 2009. Specifically, the Site contains one or more OSSF systems that cumulatively treat and dispose of more than 5,000 gallons of sewage per day on one piece of property.

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: K & H Holdings, LLC, Docket No. 2009-1442-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 the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit an administratively complete permit application in accordance with 30 TEX. ADMIN. CODE ch. 305 to:

Application Review and Processing Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.e below;
- d. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, in accordance with Ordering Provision No. 2.e below; and
- e. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a, and 2.d. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 Site 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.

K & H Holdings, LLC

DOCKET NO. 2009-1442-MWD-E

Page 5

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.

K & H Holdings, LLC
DOCKET NO. 2009-1442-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdlien

For the Executive Director

4/23/2010

Date

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]

Signature

4/14/2010

Date

Chris Hansen

Name (Printed or typed)
Authorized Representative of
K & H Holdings, LLC

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.