

5510 ACORN, L.L.C.

RN101268258

Docket No. 2010-1471-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more NOV's over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

5510 Mount Houston Road, Houston, Harris County

Type of Operation:

mobile home park with a public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: August 19, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$23,268

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$798

Total Due to General Revenue: \$22,470

Payment Plan: 35 payments of \$642 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 17, 2010; June 22, 2010; June 6, 2011
Date(s) of NOV(s): See Compliance History – 25 NOVs
Date(s) of NOE(s): August 20, 2010; June 10, 2011

Violation Information

1. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements [30 TEX. ADMIN. CODE § 290.121(a) and (b)].
2. Failed to prepare and submit Disinfectant Level Quarterly Operating Reports (“DLQORs”) to the Commission each quarter by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)].
3. Failed to operate the Facility under the direct supervision of a water works operator who holds a Class “D” or higher license [TEX. HEALTH & SAFETY CODE § 341.033(a) and 30 TEX. ADMIN. CODE § 290.46(e)(3)(A)].
4. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample (February 2009 through March 2010, May 2010 and January 2011) [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. Failed to comply with the Maximum Contaminant Level (“MCL”) for total coliform and failed to provide public notification of the MCL exceedence for the month of November 2010 [TEX. HEALTH & SAFETY CODE § 341.031(a) and 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A)].
6. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F)].
7. Failed to mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Within 10 days:
 - a. Begin preparing and submitting DLQORs to the Commission each quarter by the tenth day of the month following the end of each quarter (violation 2); and

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- b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting (violations 4, 5 and 6).
2. Within 30 days:
 - a. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility (violations 4 and 5);
 - b. Develop and maintain an up-to-date chemical and microbiological monitoring plan (violation 1);
 - c. Begin operating the Facility under the direct supervision of a Class "D" or higher certified water works operator (violation 3); and
 - d. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers of the Facility (violation 7).
3. Within 45 days, submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2010 and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data.
4. Submit written certification to demonstrate compliance:
 - a. Within 30 days for Technical Requirement No. 1.a.;
 - b. Within 45 days for Technical Requirement No. 2;
 - c. Within 60 days for Technical Requirement No. 3; and
 - d. Within 195 days for Technical Requirement No. 1.a..

Litigation Information

Date Petition(s) Filed: December 21, 2010; July 8, 2011
Date Answer(s) Filed: January 20, 2011
SOAH Referral Date: February 24, 2011
Hearing Date(s):
Preliminary hearing: April 14, 2011 (waived)
Evidentiary hearing: July 21, 2011
Settlement Date: July 12, 2011

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Andrea Linson, Water Enforcement Section, (512) 239- 1482

TCEQ Regional Contact: Steve Smith, Houston Regional Office, (713) 767-3581

Respondent: Richard C. Lievens, 5510 ACORN, L.L.C., 808 Travis Street, Ste. 2600, Houston, Texas 77002-5705

Respondent's Attorney: Jerry L. Elmore, Frank, Elmore, Lievens, Chesney & Turet, L.L.P., 9225 Katy Freeway, Suite 250, Houston, Texas 77024-1521

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Aug-2010	Screening	30-Aug-2010	EPA Due	31-Aug-2008
	PCW	20-Jun-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	5510 ACORN, L.L.C.		
Reg. Ent. Ref. No.	RN101268258		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40355	No. of Violations	7
Docket No.	2010-1471-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,200
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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	125.0% Enhancement	Subtotals 2, 3, & 7	\$9,000
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Notes: Enhancement for 25 same/similar NOV's.

Culpability	Yes	25.0% Enhancement	Subtotal 4	\$1,800
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Notes: The respondent received four alert letters for Disinfectant Level Quarterly Report ("DLQOR") reporting violations, dated June 9, 2009, September 4, 2009, December 11, 2009 and June 4, 2010.

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: \$5,297
Approx. Cost of Compliance: \$12,526
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	29.3%	Adjustment	\$5,268
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with violation nos. 2, 3, 4, 5, 6 and 7.

Final Penalty Amount	\$23,268
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$23,268
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral due to culpability.

PAYABLE PENALTY	\$23,268
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Screening Date 30-Aug-2010

Docket No. 2010-1471-PWS-E

PCW

Respondent 5510 ACORN, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 40355

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101268258

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	25	125%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 125%

>> Repeat Violator (Subtotal 3)

N/A

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 for 25 same/similar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 125%

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Reg. Ent. Reference No. RN101268258
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text" value="x"/>	

Violation Base Penalty

Good Faith Efforts to Comply

0.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
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	\$180	17-May-2010	29-Feb-2012	1.79	\$16	n/a	\$16
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount necessary to develop and maintain an accurate and up-to-date chemical and microbiological monitoring plan, calculated from the investigation date to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$16

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
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Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Failed to prepare and submit Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Commission each quarter by the tenth day of the month following the end of each quarter. Specifically, it was documented that the Facility did not prepare and submit DLQORs for the following time periods: the first, second and third quarters of 2006; the second, third and fourth quarters of 2007; the first, second, third and fourth quarters of 2008; the first, second, third and fourth quarters of 2009; and the first quarter of 2010.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

The Respondent failed to meet 100% of the rule requirement.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Fifteen quarterly events are recommended, calculated for the quarters in which the reports were not submitted.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement 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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
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
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]	\$615	10-Apr-2006	10-Apr-2010	4.92	\$151	\$615	\$766
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to ensure that DLQORs are completed and submitted to the Commission, calculated from the last day that the report was due for the first quarter of 2006 to the last day the report was due for the first quarter of 2010.

Approx. Cost of Compliance

\$615

TOTAL

\$766

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Reg. Ent. Reference No. RN101268258
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
<input type="text" value="Failure to continuously operate the system under the direct supervision of an appropriately licensed water works operator may result in poor plant operation and expose the public to significant amounts of contaminants which would exceed levels protective of human health."/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
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
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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	\$10,400	17-May-2010	30-Aug-2010	0.29	\$150	\$2,992	\$3,141
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

The delayed costs include the estimated amount to employ a part-time licensed operator (calculated at \$10.00 per hour x 20 hours/week x 52 weeks), calculated from the date of the investigation to the screening date.

Approx. Cost of Compliance

\$10,400

TOTAL

\$3,141

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Reg. Ent. Reference No. RN101268258
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 4

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 routine distribution water samples for coliform analysis for the following months: February 2009 through March 2010, May 2010 and January 2011; and failed to provide public notification of the failure to sample for the following months: February 2009 through March 2010, May 2010 and January 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%
	Failure to properly sample may expose the public to a significant amount of undetected contaminants which would exceed levels protective of human health.				

Adjustment \$750

\$250

Violation Events

Number of Violation Events 16 487 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$4,000

Sixteen monthly events are recommended, based on the months sampling was not conducted.

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 \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$928

Violation Final Penalty Total \$12,927

This violation Final Assessed Penalty (adjusted for limits) \$12,927

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
Media Public Water Supply
Violation No. 4

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)	\$100	1-May-2010	10-Feb-2012	1.78	\$1	\$12	\$12
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement training on procedures necessary to ensure that all public notifications are provided in a timely manner to the customers of the Facility, calculated from the date of the file review to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$400	28-Feb-2009	31-Jan-2011	2.84	\$57	\$400	\$457
Other (as needed)	\$400	1-May-2009	30-Apr-2011	2.92	\$58	\$400	\$458

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 x 16 samples + \$25 x 16 public notices) to conduct routine coliform sampling and provide public notification of the failure to collect the sample, calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$900

TOTAL

\$928

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Reg. Ent. Reference No. RN101268258
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

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 and failed to provide public notification of the MCL exceedence for the month of November 2010.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes As a result of the exceedence, persons served by the Facility have been exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

One monthly event is recommended.

Good Faith Efforts to Comply

	Reduction	
	Before NOV	NOV to EDPRP/Settlement 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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
Media Public Water Supply
Violation No. 5

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]	\$200	15-Nov-2010	18-Nov-2010	0.00	\$0	\$200	\$200
Other (as needed)	\$25	17-Nov-2010	17-Dec-2010	1.00	\$1	\$25	\$26

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to provide additional oversight necessary to prevent or avoid the exceedence. The date required is the sample date. The final date is the date when additional sampling was conducted to address the issue. The other avoided cost includes the amount necessary to provide public notification, calculated for the time frame the notice should have been provided.

Approx. Cost of Compliance \$225

TOTAL \$226

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Reg. Ent. Reference No. RN101268258
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
Media Public Water Supply
Violation No. 6

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-Dec-2010	31-Dec-2010	1.00	\$6	\$125	\$131
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary (\$25 x 5 samples) to conduct routine coliform sampling, calculated for the month the samples were required.

Approx. Cost of Compliance \$125

TOTAL \$131

Screening Date 30-Aug-2010
Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Reg. Ent. Reference No. RN101268258
Media [Statute] Public Water Supply
Enf. Coordinator Andrea Linson

Docket No. 2010-1471-PWS-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Number

Rule Cite(s)

Violation Description Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the bill paying customers nor did the Respondent submit the CCRs or the required certification to the TCEQ for 2009.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

	<input type="text" value="1"/>	<input type="text" value="7"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input checked="" type="text" value="x"/>	
single event	<input type="text"/>		

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDRP/ Settlement 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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 5510 ACORN, L.L.C.
Case ID No. 40355
Req. Ent. Reference No. RN101268258
Media Public Water Supply
Violation No. 7

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]	\$81	1-Jul-2010	13-Jun-2011	1.87	\$8	\$81	\$89
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the CCRs to the customers of the Facility (calculation: \$0.50 x 62 connections + \$50), calculated from the date the CCR was due to the screening date.

Approx. Cost of Compliance

\$81

TOTAL

\$89

Compliance History

Customer/Respondent/Owner-Operator: CN600788335 5510 Acorn L.L.C. Classification: Rating: 6.85
 AVERAGE

Regulated Entity: RN101268258 ACORN VILLAGE MOBILE HOME Classification: Site Rating:
 PARK

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012333

Location: 5510 MOUNT HOUSTON ROAD, HOUSTON, TX, 77093

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 13, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 13, 2006 to June 13, 2011

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

Name: Andrea Linson Phone: 512-239-1482

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CEEDS Inv. Track. No.)
- | | | | |
|----|---------------------|----|---------------------|
| 1 | 01/20/2010 (782474) | 17 | 05/01/2010 (801140) |
| 2 | 05/01/2010 (800959) | 18 | 05/01/2010 (801142) |
| 3 | 05/01/2010 (800987) | 19 | 05/01/2010 (801150) |
| 4 | 05/01/2010 (800995) | 20 | 09/23/2010 (801252) |
| 5 | 05/01/2010 (801001) | 21 | 08/18/2010 (826438) |
| 6 | 05/01/2010 (801011) | 22 | 09/02/2010 (858188) |
| 7 | 05/01/2010 (801017) | 23 | 09/23/2010 (863323) |
| 8 | 05/01/2010 (801030) | 24 | 09/24/2010 (864389) |
| 9 | 05/01/2010 (801037) | 25 | 03/08/2011 (872246) |
| 10 | 05/01/2010 (801111) | 26 | 06/02/2011 (920251) |
| 11 | 05/01/2010 (801123) | 27 | 06/07/2011 (923766) |
| 12 | 05/01/2010 (801124) | 28 | 06/07/2011 (923778) |
| 13 | 05/01/2010 (801132) | 29 | 06/09/2011 (924349) |
| 14 | 05/01/2010 (801133) | 30 | 06/10/2011 (924510) |
| 15 | 05/01/2010 (801135) | 31 | 12/22/2010 (924519) |
| 16 | 05/01/2010 (801137) | | |
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)
- Date: 12/20/2007 (800987) CN600788335
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
- Description: TCR Routine Monitoring Violation 09/2007 - 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 09/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).
- Date: 01/31/2008 (800995) CN600788335
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
- Description: TCR Routine Monitoring Violation 10/2007 - 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 10/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 02/14/2008 (801001) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 11/2007 - 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 11/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 02/21/2008 (801011) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 12/2007 - 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 12/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/11/2008 (801017) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 01/2008 - 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 01/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/06/2009 (801030) CN600788335

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 sample(s).

Date: 05/26/2009 (801037) CN600788335

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 3/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/15/2009 (801111) CN600788335

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)
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/14/2009 (801123) CN600788335

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).

Date: 08/04/2009 (801124) CN600788335

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).

Date: 09/16/2009 (801132) CN600788335

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 07/2009 - 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 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/02/2009 (801133) CN600788335

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 08/2009 - 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 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 11/05/2009 (801135) CN600788335

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 09/2009 - 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 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/08/2009 (801137) CN600788335

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 10/2009 - 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 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2010 (801140) CN600788335

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 11/2009 - 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 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/26/2010 (801142) CN600788335

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

Description: TCR Routine Monitoring Violation 12/2009 - 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 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/16/2010 (801150) CN600788335

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

Description: TCR Routine Monitoring Violation 01/2010 - 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 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/29/2010 (800959) CN600788335

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

Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Date: 05/03/2010 (801252) CN600788335

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

Description: TCR Routine Monitoring Violation 03/2010. 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 03/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/06/2010 (863323) CN600788335

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

Description: TCR Routine Monitoring Violation 05/2010. 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 05/2010. Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/03/2010 (858188) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(o)(1)

Description: Failure to submit an Emergency Preparedness Plan by the required deadline.

Date: 11/17/2010 (920251) CN600788335

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

Description: TCR MCL Violation 11/2010 - System exceeded a Maximum Contaminant Level Violation.

Date: 12/22/2010 (924519) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2009 to its bill-paying customers.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2009 CCR year to the TCEQ.

Date: 02/11/2011 (923766) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Increase Monitoring Violation 12/2010 - Failure to collect any 5 distribution samples following a coliform found month.

Date: 03/10/2011 (923778) CN600788335

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 01/2011 - Failure to collect 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
5510 ACORN, L.L.C.;
RN101268258**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1471-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding 5510 ACORN, L.L.C. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owns a mobile home park with a public water system located at 5510 Mount Houston Road in Houston, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has one service interconnection with the City of Houston, 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 an onsite investigation conducted by a TCEQ Houston Regional Staff investigator on May 17, 2010, and two record reviews conducted by TCEQ Public Drinking Water Program investigators on June 22, 2010 and June 6, 2011, it was documented that Respondent:
 - a. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling

frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, during the May 17, 2010, investigation it was documented that the Facility did not have a monitoring plan;

- b. Failed to prepare and submit Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Commission each quarter by the tenth day of the month following the end of each quarter. Specifically, during the May 17, 2010, investigation it was documented that the Facility did not prepare and submit DLQORs for the following time periods: the first, second and third quarters of 2006; the second, third and fourth quarters of 2007; the first, second, third and fourth quarters of 2008; the first, second, third and fourth quarters of 2009; and the first quarter of 2010;
 - c. Failed to operate the Facility under the direct supervision of a water works operator who holds a Class "D" or higher license, as documented on May 17, 2010, and June 22, 2010;
 - d. Failed to collect routine distribution water samples for coliform analysis for the following months: February 2009 through March 2010, May 2010, and January 2011; and failed to provide public notification of the failure to sample for the following months: February 2009 through March 2010, May 2010, and January 2011, as documented on May 17, 2010, and June 6, 2011;
 - e. Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform and failed to provide public notification of the MCL exceedence for the month of November 2010, as documented on June 6, 2011;
 - f. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result. Specifically, Respondent did not collect at least five routine distribution samples in December 2010 after exceeding the MCL for total coliform in November 2010, as documented on June 6, 2011; and
 - g. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, it was documented on June 6, 2011, that Respondent did not mail or directly deliver the CCRs to the bill paying customers nor did it submit the CCRs or the required certification to the TCEQ for 2009.
3. Respondent received notice of the violations in Findings of Fact Nos. 2.a. through 2.c. on or about August 25, 2010. Respondent received notice of the violations in Findings of Fact Nos. 2.d. through 2.g. on or about June 15, 2011.

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 develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to prepare and submit DLQORs to the Commission each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to operate the Facility under the direct supervision of a water works operator who holds a Class "D" or higher license, in violation of TEX. HEALTH & SAFETY CODE § 341.033(a) and 30 TEX. ADMIN. CODE § 290.46(e)(3)(A).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect routine distribution water samples for coliform analysis for the following months: February 2009 through March 2010, May 2010, and January 2011; and failed to provide public notification of the failure to sample for the following months: February 2009 through March 2010, May 2010, and January 2011, 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).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to comply with the MCL for total coliform and failed to provide public notification of the MCL exceedence for the month of November 2010, in violation of TEX. HEALTH & SAFETY CODE § 341.031(a) and 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes 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 twenty-three thousand two hundred sixty-eight dollars (\$23,268.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid seven hundred ninety-eight dollars (\$798.00) of the administrative penalty. The remaining amount of twenty-two thousand four hundred seventy dollars (\$22,470.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of six hundred forty-two dollars (\$642.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days

following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 10, above, 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 Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: 5510 ACORN, L.L.C., Docket No. 2010-1471-PWS-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, Respondent shall:
 - i. Begin preparing and submitting DLQORs to the Commission each quarter by the tenth day of the month following the end of each quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 3); and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting 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 consecutive months of compliant monitoring and reporting (Conclusions of Law Nos. 5, 6 and 7).
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.a.i.;

- ii. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122 (Conclusions of Law Nos. 5 and 6);
 - iii. Develop and maintain an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121 (Conclusion of Law No. 2);
 - iv. Begin operating the Facility under the direct supervision of a Class "D" or higher licensed, certified water works operator, as required by 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 4); and
 - v. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers of the Facility, as required by 30 TEX. ADMIN. CODE § 290.274 (Conclusion of Law No. 8).
- c. Within 45 days after the effective date of this Agreed Order, Respondent shall:
- i. Submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision Nos. 2.b.ii. through 2.b.v.; and
 - ii. Submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2010, the certification that the CCR has been distributed to the customers of the Facility, and that the information in the CCR is correct and consistent with compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274 (Conclusion of Law No. 8). The copy of the CCR and certification shall be mailed to:

Elston Johnson, Public Drinking Water Section
Water Supply Division, MC-155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
- d. Within 60 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.c.ii.
- e. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.a.ii.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

with a copy to:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
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 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.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"),

or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/13/2011

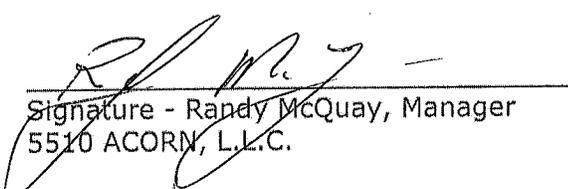
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of 5510 ACORN, L.L.C., 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Randy McQuay, Manager
5510 ACORN, L.L.C.

Date

7/12/2011