

Executive Summary – Enforcement Matter – Case No. 41271
TLALOC OUTDOORS, INC. d/b/a Del Rio Fisherman's Headquarters
RN101217800
Docket No. 2011-0361-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4957 West Highway 90, Del Rio, Val Verde County

Type of Operation:

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: October 14, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,163

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$163

Total Due to General Revenue: \$1,000

Payment Plan: 10 payments of \$100 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 20, 2011
Date(s) of NOV(s): August 24, 2009; October 2, 2009; December 8, 2009;
May 6, 2010; August 31, 2010
Date(s) of NOE(s): February 11, 2011

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis, and failed to provide public notice of the failure to sample [TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B)].
2. Failed to comply with the maximum contaminant level ("MCL") for total coliform and failed to provide public notification of the MCL exceedance [TEX. HEALTH & SAFETY CODE § 341.031(a) and 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On February 1, 2011, Respondent completed six consecutive months of compliant coliform monitoring and developed a protocol to ensure all public notifications are provided in a timely manner.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: July 6, 2011
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: September 14, 2011

Contact Information

TCEQ Attorneys: Steven M. Fishburn, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Rebecca Clausewitz, Water Enforcement Section, (210) 403-4012

TCEQ Regional Contact: Rose Luna-Pirtle, Laredo Regional Office, (956) 753-4052

Respondent: Carlos Gustavo Flores, Director, TLALOC OUTDOORS, INC., 4957 West Highway 90, Del Rio, Texas 78840

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|------------|------------------|------------|----------------|-------------|
| DATES | Assigned | 7-Mar-2011 | Screening | 7-Mar-2011 | EPA Due | 28-Feb-2011 |
| | PCW | 8-Jun-2011 | | | | |

| | | | | | | |
|--|--|---------------------------|-------|--|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | | |
| Respondent | TLALOC OUTDOORS, INC. dba Del Rio Fisherman's Headquarters | | | | | |
| Reg. Ent. Ref. No. | RN101217800 | | | | | |
| Facility/Site Region | 16-Laredo | Major/Minor Source | Minor | | | |

| | | | | | | |
|--------------------------------|---------------------|------------------------------|--------------------|---------|--|--|
| CASE INFORMATION | | | | | | |
| Enf./Case ID No. | 41271 | No. of Violations | 2 | | | |
| Docket No. | 2011-0361-PWS-E | Order Type | Findings | | | |
| Media Program(s) | Public Water Supply | Government/Non-Profit | No | | | |
| Multi-Media | | Enf. Coordinator | Kelly Wisian | | | |
| | | 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 | \$1,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|-------|
| Compliance History | 22.0% Enhancement | Subtotals 2, 3, & 7 | \$220 |
|---------------------------|-------------------|--------------------------------|-------|

Notes Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$249 |
|--|-------------------|-------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

| | |
|----------------------------|-------|
| Total EB Amounts | \$193 |
| Approx. Cost of Compliance | \$285 |

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$971 |
|-----------------------------|-----------------------|-------|

| | | | |
|---|-------|-------------------|-------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 19.8% | Adjustment | \$192 |
|---|-------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement for the recovery of avoided costs of compliance for violation nos. 1 and 2.

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$1,163 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$1,163 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

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

Notes No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$1,163 |
|------------------------|---------|

Screening Date 7-Mar-2011

Docket No. 2011-0361-PWS-E

PCW

Respondent TLALOC OUTDOORS, INC. dba Del Rio Fisherman'

Policy Revision 2 (September 2002)

Case ID No. 41271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217800

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

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>) | 4 | 20% |
| | Other written NOVs | 1 | 2% |
| 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) 22%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 7-Mar-2011

Docket No. 2011-0361-PWS-E

PCW

Respondent TLALOC OUTDOORS, INC. dba Del Rio Fisherman's Headquarte

Policy Revision 2 (September 2002)

Case ID No. 41271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217800

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 1

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of August 2009, October 2009, and July 2010, and failed to provide public notice of the failure to sample for the month of October 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 25% |
| Potential | x | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

Matrix Notes 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 3 93 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$750

Three monthly events are recommended for the months when sampling was not conducted.

Good Faith Efforts to Comply

25.0% Reduction

\$187

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | x | |
| N/A | | (mark with x) |

Notes The Respondent achieved compliance on February 1, 2011.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$87

Violation Final Penalty Total \$872

This violation Final Assessed Penalty (adjusted for limits) \$872

Economic Benefit Worksheet

Respondent TLALOC OUTDOORS, INC. dba Del Rio Fisherman's Headquarters
Case ID No. 41271
Req. Ent. Reference No. RN101217800
Media Public Water Supply
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$100 | 20-Jan-2011 | 1-Feb-2011 | 0.03 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date. The final date is the date compliance was achieved.

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] | \$75 | 31-Aug-2009 | 31-Jul-2010 | 1.83 | \$7 | \$75 | \$82 |
| Other (as needed) | \$5 | 1-Nov-2009 | 31-Jan-2010 | 1.17 | \$0 | \$5 | \$5 |

Notes for AVOIDED costs

The one-time avoided cost and the other cost include the estimated amount to conduct routine monthly sampling (\$25 per month) and the estimated amount to provide public notice to the Facility's employees and customers (\$5 per month), calculated for the months in which routine sampling and public notice did not occur.

Approx. Cost of Compliance

\$180

TOTAL

\$87

Screening Date 7-Mar-2011

Docket No. 2011-0361-PWS-E

PCW

Respondent TLALOC OUTDOORS, INC. dba Del Rio Fisherman's Headquarter

Policy Revision 2 (September 2002)

Case ID No. 41271

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101217800

Media [Statute] Public Water Supply

Enf. Coordinator Kelly Wisian

Violation Number 2

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 exceedance for the month of April 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm | | | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | | | | 0% |

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

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 30 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended, based on the month of the MCL exceedance.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$62

| | |
|---------------|---------------|
| Extraordinary | |
| Ordinary | x |
| N/A | (mark with x) |

Notes The Respondent achieved compliance on February 1, 2011.

Violation Subtotal \$188

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$291

This violation Final Assessed Penalty (adjusted for limits) \$291

Economic Benefit Worksheet

Respondent TLALOC OUTDOORS, INC. dba Del Rio Fisherman's Headquarters
Case ID No. 41271
Req. Ent. Reference No. RN101217800
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] | \$100 | 29-Apr-2010 | 30-Apr-2010 | 0.00 | \$0 | \$100 | \$100 |
| Other (as needed) | \$5 | 1-May-2010 | 31-May-2010 | 1.00 | \$0 | \$5 | \$5 |

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional oversight to properly treat the water to prevent the presence of coliform and to provide a public notice, calculated for the month in which the exceedance occurred and public notice was required.

Approx. Cost of Compliance

\$105

TOTAL

\$105

Compliance History Report

Customer/Respondent/Owner-Operator: CN603345158 TLALOC OUTDOORS, INC. Classification: Rating:
Regulated Entity: RN101217800 DEL RIO FISHERMAN'S Classification: Site Rating:
HEADQUARTERS
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2330016
Location: 4957 WEST HIGHWAY 90, VAL VERDE COUNTY, TEXAS
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: March 07, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 07, 2006 to March 07, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Kelly Wisian Phone: (512) 239-2570

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 08/20/2009 | (761618) |
| 2 | 10/06/2009 | (778387) |
| 3 | 01/23/2011 | (892376) |
| 4 | 02/07/2011 | (892858) |
| 5 | 02/07/2011 | (892868) |
| 6 | 02/07/2011 | (892879) |
| 7 | 03/01/2011 | (894979) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 08/24/2009 | (761618) | CN603345158 |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F) | | |
| Description: | Failure to obtain a sanitary control easement for the well. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III) | | |
| Description: | Failure by a groundwater system that serves fewer than 250 connections and fewer than 750 people to maintain a record of the amount of water treated each week. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(e) | | |
| Description: | Failure to enclose the pressure tank within an intruder-resistant fence with a lockable gate. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(C) | | |
| Description: | Failure to inspect the pressure tank annually. | | |
| Date: | 10/02/2009 | (892376) | CN603345158 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) | | |
| 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)(B) | | |
| Description: | TCR PN Routine Monitoring Violation 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s). | | |

Date: 12/08/2009 (892858) CN603345158
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 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)(B)
 Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 05/06/2010 (892868) CN603345158
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: TCR MCL Violation 04/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)
 Description: TCR PN MCL Violation 04/2010 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

Date: 08/31/2010 (892879) CN603345158
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 Description: TCR Routine Monitoring Violation 07/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
 Description: TCR PN Routine Monitoring Violation 07/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TLALOC OUTDOORS, INC. D/B/A
DEL RIO FISHERMAN'S
HEADQUARTERS;
RN101217800**

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§
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§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0361-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 TLALOC OUTDOORS, INC. d/b/a Del Rio Fisherman's Headquarters ("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 and operates a public water system located at 4957 West Highway 90 in Del Rio, Val Verde County, Texas (the "Facility"). The Facility provides water for human consumption, has twenty-three (23) service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on January 20, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of August 2009, October 2009, and July 2010, and failed to

provide public notice of the failure to sample for the month of October 2009;
and

- b. Failed to comply with the maximum contaminant level ("MCL") for total coliform and failed to provide public notification of the MCL exceedance for the month of April 2010.
3. Respondent received notice of the violations on or about February 16, 2011.
 4. The Executive Director recognizes that on February 1, 2011, Respondent completed six consecutive months of compliant coliform monitoring and developed a protocol to ensure all public notifications are provided in a timely manner.

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.
2. As evidenced by Finding of Fact No. 2.a. Respondent failed to collect routine distribution water samples for coliform analysis for the months of August 2009, October 2009, and July 2010, and failed to provide public notice of the failure to sample for the month of October 2009, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d) and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B).
3. As evidenced by Finding of Fact No. 2.b. Respondent failed to comply with the MCL for total coliform and failed to provide public notification of the MCL exceedance for the month of April 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).
4. 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.
5. An administrative penalty in the amount of one thousand one hundred sixty-three dollars (\$1,163.00) 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 one hundred sixty-three dollars (\$163.00) of the administrative penalty. The remaining amount of one thousand dollars (\$1,000.00) of the administrative penalty shall be payable in ten (10) monthly payments of one hundred dollars (\$100.00) 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. 5, 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: TLALOC OUTDOORS, INC. d/b/a Del Rio Fisherman's Headquarters, Docket No. 2011-0361-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. All relief not expressly granted in this Agreed Order is denied.
3. 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.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
5. 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.
6. 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.
7. 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

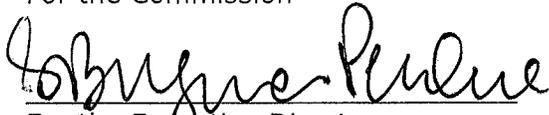
all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or 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.

8. 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

10/28/2011

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 TLALOC OUTDOORS, INC. d/b/a Del Rio Fisherman's Headquarters, 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.

UNV101 01 P10V01

9-14-2011

Signature – Carlos Gustavo Flores, Director
TLALOC OUTDOORS, INC.

Date