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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0037-PWS-E **TCEQ ID:** RN101271245 **CASE NO.:** 38945
RESPONDENT NAME: Lukes Mobile Home Park, Inc.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Lukes Mobile Home Community, 4501 East Highway 199, Parker County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 18, 2009 alleging that the owners of Lukes Mobile/RV Park were falsifying their water testing. The complainant also stated that the water was extremely chlorinated and was unfit to drink. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 18, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Michaelle Sherlock, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4076; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Judy K. Martin, Manager, Lukes Mobile Home Park, Inc., 4501 East Highway 199, Springtown, Texas 76082 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 18, 2009</p> <p>Date of Investigation Relating to this Case: October 30, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 11, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation and a complaint investigation.</p> <p>WATER</p> <p>1) Failed to provide a total well capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>2) Failed to notify the Executive Director prior to making any significant changes or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities [30 TEX. ADMIN. CODE § 290.39(j)].</p> <p>3) Failed to provide a total pressure tank capacity of 20 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>4) Failed to provide well completion data for Well No. 1 [30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2007-0621-PWS-E, Ordering Provision 2.c.iii.].</p>	<p>Total Assessed: \$1,313</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$313 (remaining \$1,000 due in five monthly payments of \$200 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>This case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 10, 2010, the Respondent received Commission approval of an exception from the record keeping rule which requires well completion data to be maintained.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit as-built plans and specifications for the new 86 gallon pressure tank to the Commission for review and approval.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision d., and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Provide a total well capacity of 0.6 gpm per connection; and</p> <p>ii. Provide a pressure tank capacity of 20 gallons per connection.</p> <p>d. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. c.i. and c.ii.</p>

Additional ID No(s): PWS Registration No. 1840141



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned 14-Dec-2009	PCW 25-Feb-2010	Screening 5-Jan-2010	EPA Due 31-Aug-2010
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RESPONDENT/FACILITY INFORMATION

Respondent	Lukes Mobile Home Park, Inc.		
Reg. Ent. Ref. No.	RN101271245		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38945	No. of Violations	4
Docket No.	2010-0037-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tel Croston
		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:	\$1,050
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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	26.0% Enhancement	Subtotals 2, 3, & 7:	\$273
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Notes: Enhancement due to one prior final enforcement Order with a denial of liability and three dissimilar Notices of Violation.

Culpability	No	0.0% Enhancement	Subtotal 4:	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5:	\$10
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Economic Benefit	0.0% Enhancement*	Subtotal 6:	\$0
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Total EB Amounts	\$1,181
Approx. Cost of Compliance	\$27,200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal:	\$1,313
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment:	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,313
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty:	\$1,313
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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 is recommended for Findings-Orders.

PAYABLE PENALTY	\$1,313
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Screening Date 5-Jan-2010

Docket No. 2010-0037-PWS-E

PCW

Respondent Lukes Mobile Home Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38945

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101271245

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 26%

>> 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 due to one prior final enforcement Order with a denial of liability and three dissimilar Notices of Violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 26%

Screening Date 5-Jan-2010

Docket No: 2010-0037-PWS-E

PCW

Respondent Lukes Mobile Home Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38945

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101271245

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

30:Tex. Admin. Code § 290.45(b)(1)(B)(i) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a total well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the Facility has 25 service connections, which requires a well capacity of 15 gpm. However, the Facility provides only 9 gpm, which is a 40 percent deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

Matrix Notes

Failing to provide sufficient well capacity could result in water outages and low pressure problems which could expose customers to a significant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

67 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, October 30, 2009, to the date of screening, January 5, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,045

Violation Final Penalty Total \$126

This violation Final Assessed Penalty (adjusted for limits) \$126

Economic Benefit Worksheet

Respondent: Lukas Mobile Home Park, Inc.
Case ID No.: 38945
Reg. Ent. Reference No.: RN101271245
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$25,000	30-Oct-2009	5-Jun-2010	0.60	\$50	\$995	\$1,045
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

Estimated cost to provide adequate well capacity, calculated from the date of the investigation to the projected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$25,000

TOTAL

\$1,045

Screening Date 5-Jan-2010

Docket No. 2010-0037-PWS-E

PCW

Respondent Lukes Mobile Home Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38945

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101271245

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.39(j)

Violation Description

Failed to notify the Executive Director prior to making any significant changes or additions to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities. Specifically, at the time of the investigation, it was documented that the Respondent failed to notify the Executive Director of the installation of a new 86 gallon pressure tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

Failed to comply with 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

67 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDCRP/ 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$32

Violation Final Penalty Total \$126

This violation Final Assessed Penalty (adjusted for limits) \$126

Economic Benefit Worksheet

Respondent: Lukes Mobile Home Park, Inc.
Case ID No.: 38945
Reg. Ent. Reference No.: RN101271246
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$500	30-Oct-2009	24-Sep-2010	0.90	\$2	\$30	\$32
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: Estimated cost to submit notification, including plans and specifications, to the Executive Director regarding the installation of the pressure tank. The date required is the investigation date. The final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$500
TOTAL \$32

Screening Date 5-Jan-2010

Docket No. 2010-0037-PWS-E

PCW

Respondent Lukes Mobile Home Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38945

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101271245

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(B)(iv) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a total pressure tank capacity of 20 gallons per connection. Specifically, at the time of the investigation, it was documented that the Facility had 86 gallons of pressure tank capacity. Based on 25 service connections, the Facility is required to provide a total pressure tank capacity of 500 gallons, which is an 83% deficiency.

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%

Matrix Notes

Failing to meet the minimum pressure tank capacity of 20 gallons per connection could result in low pressure and back-siphonage, thereby exposing the system to a significant amount of contaminants that would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3 Number of violation days 67

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

Violation Base Penalty \$750

Three monthly events are recommended from the date of the investigation, October 30, 2009, to the date of screening, January 5, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$77

Violation Final Penalty Total \$945

This violation Final Assessed Penalty (adjusted for limits) \$945

Economic Benefit Worksheet

Respondent: Lukes Mobile Home Park, Inc.
Case ID No.: 38945
Reg. Ent. Reference No.: RN101271245
Media: Public Water Supply
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	16

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	30-Oct-2009	24-Jul-2010	0.73	\$4	\$73	\$77
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: Estimated cost to increase the pressure tank capacity, calculated from the date of the investigation to the projected date of compliance

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$1,500

TOTAL

\$77

Screening Date 5-Jan-2010

Docket No. 2010-0037-PWS-E

PCW

Respondent Lukes Mobile Home Park, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38945

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101271245

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2007-0621-PWS-E, Ordering Provision 2.c.iii

Violation Description

Failed to provide well completion data for Well No. 1, as documented at the time of the investigation.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

Failed to comply with 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

667 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$10

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

Notes

The Respondent achieved compliance with this violation as of February 10, 2010.

Violation Subtotal \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$28

Violation Final Penalty Total \$116

This violation Final Assessed Penalty (adjusted for limits) \$116

Economic Benefit Worksheet

Respondent: Lukas Mobile Home Park, Inc.
Case ID No.: 38945
Reg. Ent. Reference No.: RN101271245
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$200	18-Feb-2008	10-Feb-2010	1.98	\$1	\$26	\$28
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

Estimated cost to obtain Commission approval of an exception to the rule requiring maintenance of well completion data for Well No. 1. The date required is the effective date of TCEQ Agreed Order Docket No. 2007-0621-PWS-E and the final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$200

TOTAL

\$28

Compliance History Report

Customer/Respondent/Owner-Operator: CN600700744 Lukes Mobile Home Park, Inc. Classification: Rating:
Regulated Entity: RN101271245 LUKES MOBILE HOME COMMUNITY Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1840141
Location: 4501 East Highway 199, Parker County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: January 04, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 04, 2005 to January 04, 2010

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

Name: Michaelle Shertock Phone: (210) 403-4076

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
- 6.

Components (Multimedia) for the Site :

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

Effective Date: 02/18/2008 ADMINORDER 2007-0621-PWS-E
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)
Description: Failure to provide a well casing 18 inches above the elevation of the natural ground surface with a minimum of one inch above the sealing block or pump motor foundation block.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(k)
Description: Failure to provide a Plant Operations Manual.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)
5A THSC Chapter 341, SubChapter A 341.033(a)
Description: Failure by the regulated entity to be under the direct supervision of a licensed water works operator at all times.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)
Description: Failure to provide well completion data on the day of the investigation.
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)
Description: Failure to compile Monthly Reports of Water Works Operation.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)
Description: Failure to provide a service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
Description: Failure to maintain a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute per connection at each service outlet or connection at all points within the distribution network.
Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failure to inspect both the ground storage and pressure tanks at least annually.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.2 mg/L free chlorine as per agency regulations.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702(a)
30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: failed to pay over due fees.

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	03/27/2007	(554555)
2	07/15/2007	(645297)
3	10/01/2007	(645932)
4	04/25/2008	(680911)
5	03/20/2009	(721495)

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

1	Date: 07/15/2007 (645297)	CN600700744	
	Self	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(f)(4)	
	Description:	BACT - MONITORING/REPORTING VIOLATIONS	
2	Date: 10/01/2007 (645932)	CN600700744	
	Self	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)	
	Description:	PUBLIC NOTICE	
3	Date: 04/25/2008 (680911)	CN600700744	
	Self	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(f)(2)	
	Description:	BACT - NONACUTE MCL (5% OR >1)	

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
LUKES MOBILE HOME PARK, INC.
RN101271245

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2010-0037-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lukes Mobile Home Park, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The 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, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement 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 the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 4501 East Highway 199, in Parker County, Texas (the "Facility") that has approximately 25 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation on October 30, 2009, TCEQ staff documented that the Respondent failed to provide a total well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the Facility has approximately 25 service connections, which requires a well capacity of 15 gpm. However, the Facility provides only 9 gpm, which is a 40 percent deficiency.
3. During an investigation on October 30, 2009, TCEQ staff documented that the Respondent failed to notify the Executive Director prior to making any significant changes or additions to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities. Specifically, at the time of the investigation, it was documented that the Respondent failed to notify the Executive Director of the installation of a new 86 gallon pressure tank.
4. During an investigation on October 30, 2009, TCEQ staff documented that the Respondent failed to provide a total pressure tank capacity of 20 gallons per connection. Specifically, at the time of the investigation, it was documented that the Facility had 86 gallons of pressure tank capacity. Based on 25 service connections, the system is required to provide a total pressure tank capacity of 500 gallons, which is an 83 percent deficiency.
5. During an investigation on October 30, 2009, TCEQ staff documented that the Respondent failed to provide well completion data for Well No. 1.
6. The Executive Director recognizes that on February 10, 2010, the Respondent received Commission approval of an exception from the record keeping rule which requires well completion data to be maintained.
7. The Respondent received notice of the violations on December 16, 2009.

II. CONCLUSIONS OF LAW

1. The 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 Findings of Fact No. 2, the Respondent failed to provide a total well capacity of 0.6 gpm per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to notify the Executive Director prior to making any significant changes or additions to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.39(j).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide a total pressure tank capacity of 20 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(B)(iv) and TEX. HEALTH & SAFETY CODE § 341.0315(c).

5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide well completion data for Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2007-0621-PWS-E, Ordering Provision 2.c.iii.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of One Thousand Three Hundred Thirteen Dollars (\$1,313) 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(b). The Respondent has paid Three Hundred Thirteen Dollars (\$313) of the administrative penalty. The remaining amount of One Thousand Dollars (\$1,000) of the administrative penalty shall be payable in five monthly payments of Two Hundred Dollars (\$200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Three Hundred Thirteen Dollars (\$1,313) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Lukes Mobile Home Park, Inc., Docket No. 2010-0037-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit as-built plans and specifications for the new 86 gallon pressure tank to the Commission for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.39. The plans and specifications shall be submitted to:

Utility Technical Review Team
Water Supply Division, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d, and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 180 days after the effective date of this Agreed Order:
- i. Provide a total well capacity of 0.6 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45; and
- ii. Provide a pressure tank capacity of 20 gallons per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
- d. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i. and 2.c.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the 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, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

Lukes Mobile Home Park, Inc.
DOCKET NO. 2010-0037-PWS-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

10/22/2010
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Lukes Mobile Home Park, Inc. I am authorized to agree to the attached Agreed Order on behalf of Lukes Mobile Home Park, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Lukes Mobile Home Park, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Judy K. Martin
Signature

10-12-10
Date

Judy K. Martin
Name (Printed or typed)
Authorized Representative of
Lukes Mobile Home Park, Inc.

M.P.W. R. Q. R.
Title

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