

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0791-PWS-E RN101438380 CASE NO. 39695

RESPONDENT NAME: TONY HUTCHESON D/B/A ELM GROVE MOBILE HOME PARK

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2201 Research Boulevard, Lubbock, Lubbock County</p> <p>TYPE OF OPERATION: mobile home park with public water system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement action regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired January 24, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503 Lena Roberts, Litigation Division, MC 175, (512) 239-3400 TCEQ Enforcement Coordinator: Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558 TCEQ Regional Contact: Jeff Bertl, Lubbock Regional Office, MC R-2, (806) 796-7092 Respondent: Tony Hutcheson, Owner, Elm Grove Mobile Home Park, 2201 Research Boulevard OFC, Lubbock, Texas 79407-2916 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:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint: N/A</p> <p>Dates of Investigation: April 14, 2010 May 17, 2010</p> <p>Dates of NOEs: April 14, 2010 June 6, 2010</p> <p>Background Facts: The EDPRP was filed on September 27, 2010, and mailed to Respondent via first class mail and certified mail, return receipt requested. According to the return receipt "green card," Respondent received the EDPRP on September 29, 2010. The EDFARP was filed on November 2, 2010, and mailed to Respondent via first class mail and certified mail, return receipt requested. According to the return receipt "green card," Respondent received the EDFARP on November 4, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation demonstrating compliance with the technical requirements.</p> <p>PWS:</p> <ol style="list-style-type: none"> 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)]. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2009 and 2010 [30 TEX. ADMIN. CODE § 290.51 (a)(3) and TEX. WATER CODE § 5.702]. 	<p>Total Assessed: \$466</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$466</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed administrative penalty but will be required to do so within 30 days under the terms of this Order.</p> <p>Compliance History Classifications: <i>Person/CN – N/A</i> <i>Site/RN – N/A</i></p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers; and Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 91520156. Within 45 days, submit to the Commission a copy of the CCR provide to customers of the Facility for the year 2009 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. Within 60 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-May-2010			
	PCW	25-Oct-2010	Screening	17-May-2010	EPA Due 30-Nov-2009

RESPONDENT/FACILITY INFORMATION					
Respondent	Tony Hutcheson dba Elm Grove Mobile Home Park				
Reg. Ent. Ref. No.	RN101438380				
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39695	No. of Violations	2		
Docket No.	2010-0791-PWS-E	Order Type	1660		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Stephen Thompson		
		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	\$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	69.0% Enhancement	Subtotals 2, 3, & 7	\$138
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Notes	Enhancement is due to two Notices of Violation ("NOVs") that contain violations that are the same as those contained in the current enforcement action, 17 dissimilar NOVs and one agreed final enforcement order without a denial of liability.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$128	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$117	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$338
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OTHER FACTORS AS JUSTICE MAY REQUIRE	37.9%	Adjustment	\$128
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement recommended to recover the avoided costs of compliance associated with Violation No. 1.
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Final Penalty Amount	\$466
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$466
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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	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$466
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Screening Date 17-May-2010

Docket No. 2010-0791-PWS-E

PCW

Respondent Tony Hutcheson dba Elm Grove Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 39695

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101438380

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	17	34%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 69%

>> 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 is due to two Notices of Violation ("NOVs") that contain violations that are the same as those contained in the current enforcement action, 17 dissimilar NOVs and one agreed final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 69%

Screening Date	17-May-2010	Docket No.	2010-0791-PWS-E	PCW	
Respondent	Tony Hutcheson dba Elm Grove Mobile Home Park		<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	39695		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101438380				
Media [Statute]	Public Water Supply				
Enf. Coordinator	Stephen Thompson				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)				
Violation Description	<p>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 Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2007 and 2008.</p>				
Base Penalty				\$1,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Major	Moderate	Minor		
	Actual	Potential		Percent 0%	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
		x			Percent 10%
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$900	
				\$100	
Violation Events					
	Number of Violation Events	2	Number of violation days	731	
	<i>mark only one with an x</i>	daily			
		weekly			
		monthly			
		quarterly			
		semiannual			
		annual	x		
		single event			
Two annual events are recommended.				Violation Base Penalty \$200	
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				\$200	
Economic Benefit (EB) for this violation					
Statutory Limit Test					
	Estimated EB Amount	\$128	Violation Final Penalty Total	\$466	
This violation Final Assessed Penalty (adjusted for limits)				\$466	

Economic Benefit Worksheet

Respondent Tony Hutcheson dba Elm Grove Mobile Home Park
Case ID No. 39695
Reg. Ent. Reference No. RN101438380
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$117	1-Jul-2008	1-Jul-2009	1.92	\$11	\$117	\$128
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: $(\$0.50 \times 17 \text{ connections} + \$50) \times 2 \text{ years}$), calculated for the years in which no CCRs were distributed.

Approx. Cost of Compliance

\$117

TOTAL

\$128

Screening Date 17-May-2010 **Docket No.** 2010-0791-PWS-E **PCW**
Respondent Tony Hutcheson dba Elm Grove Mobile Home Park *Policy Revision 2 (September 2002)*
Case ID No. 39695 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101438380
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

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"/>	
Potential	<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"/>	<input type="text"/>	
<input type="text"/>					
Adjustment					<input type="text" value="\$1,000"/>

Violation Events

Number of Violation Events Number of violation days
mark only one with an x
 daily
 weekly
 monthly
 quarterly
 semiannual
 annual
 single event
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="(mark with x)"/>	
Notes	<input type="text"/>	
Violation Subtotal <input type="text" value="\$0"/>		

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 Tony Hutcheson dba Elm Grove Mobile Home Park
Case ID No. 39695
Reg. Ent. Reference No. RN101438380
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

There is no economic benefit associated with this violation.

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

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600747547 HUTCHESON, TONY Classification: Rating:
Regulated Entity: RN101438380 ELM GROVE MOBILE HOME PARK Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520156
WATER LICENSING LICENSE 1520156
Location: 2201 RESEARCH BLVD, LUBBOCK COUNTY, TX
TCEQ Region: REGION 02 - LUBBOCK
Date Compliance History Prepared: May 17, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 17, 2005 to May 17, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Stephen Thompson Phone: (512) 239-2558

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.

Effective Date: 06/15/2009

ADMINORDER 2007-1911-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 09/2006 - Failure to collect any routine monitoring sample(s) in 09/2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 09/2006 - Failure to post a pn for not collecting any routine monitoring sample(s) in 09/2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 02/2007 - Failure to collect any routine monitoring sample(s) for 02/2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 02/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for 02/2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 03/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for 03/2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 03/2007 - Failure to collect any routine monitoring sample(s) for 03/2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 04/2007 - Failure to collect any routine monitoring sample(s) for 04/2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 05/2007 - Failure to collect any routine monitoring sample(s) for 05/2007.

Classification: Minor

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

Description: Failure to pay PHS fees for TCEQ account number 91520156 and associated late 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	08/11/2005	(399990)
2	08/11/2005	(533890)
3	08/11/2005	(534008)
4	03/15/2007	(644277)
5	03/21/2007	(554175)
6	03/21/2007	(554176)
7	03/21/2007	(554177)
8	03/21/2007	(554178)
9	03/21/2007	(554180)
10	03/21/2007	(554181)
11	04/05/2007	(534408)
12	04/15/2007	(644422)
13	05/08/2007	(557901)
14	05/15/2007	(644673)
15	06/01/2007	(644787)
16	06/15/2007	(644930)
17	07/01/2007	(645070)
18	10/12/2007	(597181)
19	10/17/2007	(597872)
20	10/17/2007	(597885)
21	10/17/2007	(597894)
22	10/17/2007	(597902)
23	10/26/2007	(598942)
24	11/09/2007	(600768)
25	04/02/2008	(765686)
26	01/14/2009	(796689)
27	08/14/2009	(766417)
28	09/14/2009	(767268)
29	10/27/2009	(777298)
30	11/03/2009	(797373)
31	04/28/2010	(799050)

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

Date:	08/11/2005	(534008)	CN600747547
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)		
Description:	System violated the maximum contaminant level for the running annual average for fluoride in the first quarter of 2004.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)		
Description:	System violated the maximum contaminant level for fluoride in 2002.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)		
Description:	System violated the maximum contaminant level for the running annual average for fluoride in the fourth quarter of 2003.		
Date:	10/25/2006	(597181)	CN600747547
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 5A THSC Chapter 341, SubChapter A 341.033(d)		
Description:	09/2006 - Failure to collect any routine monitoring sample(s) in 09/2006.		

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: 09/2006 - Failure to post a pn for not collecting any routine monitoring sample(s)
in 09/2006.

Date: 03/15/2007 (644277) CN600747547

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 03/21/2007 (554180) CN600747547

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average
for fluoride for the third quarter of 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average
for fluoride in the third quarter of 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average
for fluoride for the second quarter of 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average
for fluoride in the fourth quarter of 2005.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average
for fluoride in the first quarter of 2006.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average
for fluoride for the fourth quarter of 2006.

Date: 03/29/2007 (597872) CN600747547

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 02/2007 - Failure to collect any routine monitoring sample(s) for 02/2007.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 02/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for
02/2007.

Date: 04/15/2007 (644422) CN600747547

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 04/25/2007 (597885) CN600747547

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 03/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for
03/2007.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 03/2007 - Failure to collect any routine monitoring sample(s) for 03/2007.

Date: 05/09/2007 (557901) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(a)

Description: Failure to submit Disinfectant Level Quarterly Operating Report as required.

Date: 05/15/2007 (644673) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)

Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 05/25/2007 (597894) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 04/2007 - Failure to collect any routine monitoring sample(s) for 04/2007.

Date: 06/01/2007 (644787) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)

Description: PUBLIC NOTICE

Date: 06/15/2007 (644930) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)

Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 06/25/2007 (597902) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.033(d)

Description: 05/2007 - Failure to collect any routine monitoring sample(s) for 05/2007.

Date: 07/01/2007 (645070) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)

Description: PUBLIC NOTICE

Date: 04/02/2008 (765686) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)

Description: Violated the maximum contaminant level for uranium during the first quarter of 2007.

Date: 01/14/2009 (796689) CN600747547

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 2007 to its bill-paying customers.

Self Report? NO Classification: Minor

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 2007 CCR year to the TCEQ.

Date: 07/28/2009 (766417) CN600747547

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)

Description: Violated the maximum contaminant level for uranium during the fourth quarter of 2008.

Date: 10/13/2009 (777298) CN600747547
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: 09/2006 - Failure to post a pn for not collecting any routine monitoring sample(s)
 in 09/2006.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: 02/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for
 02/2007.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 5A THSC Chapter 341, SubChapter A 341.033(d)
 Description: 03/2007 - Failure to post pn for not collecting any routine monitoring sample(s) for
 03/2007.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter E 290.51(a)(3)
 Description: Failure to pay PHS fees for TCEQ account number 91520156 and associated late
 fees.

Date: 11/03/2009 (797373) CN600747547
 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
 2008 to its bill-paying customers.
 Self Report? NO Classification: Minor
 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 2008 CCR year to the TCEQ.

- 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
TONY HUTCHESON D/B/A ELM
GROVE MOBILE HOME PARK;
RN101438380**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-0791-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Tony Hutcheson d/b/a Elm Grove Mobile Home Park ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a mobile home park with a public water system located at 2201 Research Boulevard in Lubbock, Lubbock County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 17 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 April 14, 2010, a TCEQ Central Office investigator documented that Respondent 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, Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did Respondent submit the CCR or the required certification to the TCEQ for the years 2007 and 2008.
3. Respondent received notice of the violation in Finding of Fact No. 2 on or about April 19, 2010.
4. During an overdue fee investigation conducted on May 17, 2010, a TCEQ enforcement coordinator documented that Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2009 and 2010.

5. Respondent received notice of the violation in Finding of Fact No. 4 on or about June 11, 2010.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tony Hutcheson d/b/a Elm Grove Mobile Home Park," (the "EDPRP") in the TCEQ Chief Clerk's office on September 27, 2010.
7. By letter dated September 27, 2010, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on September 29, 2010, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tony Hutcheson d/b/a Elm Grove Mobile Home Park," (the "EDFARP") in the TCEQ Chief Clerk's office on November 2, 2010.
9. By letter dated November 2, 2010, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on November 4, 2010, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP, provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

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, TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, 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).
3. As evidenced by Finding of Fact No. 4, Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91520156 for Fiscal Years 2009 and 2010, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.

4. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Findings of Fact Nos. 8 and 9, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 10, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. 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.
8. An administrative penalty in the amount of four hundred sixty-six dollars (\$466.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of four hundred sixty-six dollars (\$466.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Tony Hutcheson d/b/a Elm Grove Mobile Home Park; Docket No. 2010-0791-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

3. Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Order, Respondent shall:

i. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274 (Conclusion of Law No. 2); and

ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91520156 (Conclusion of Law No. 3). The payment shall be sent with the notation "Tony Hutcheson d/b/a Elm Grove Mobile Home Park, FA Account No. 91520156" 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

b. Within 45 days after the effective of this Order, Respondent shall submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 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, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

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

c. Within 60 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification 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 certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Mr. Jeff Bertl, Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3421

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHARESAS Y. ALEXANDER

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Sharesa Y. Alexander. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

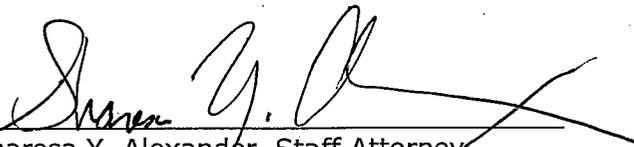
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tony Hutcheson d/b/a Elm Grove Mobile Home Park," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 27, 2010.

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Sharesa Y. Alexander, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 14 day of December, A.D. 2010.

Margaret Jackson
Notary Signature

