

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1848-UTL-E **TCEQ ID:** RN101181733, RN102680311, RN101263655

CASE NO.: 40702

RESPONDENT NAME: J&S Water Company, L.L.C.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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 checked="" type="checkbox"/> UTILITIES
<p>SITE WHERE VIOLATION(S) OCCURRED: Five Oaks Mobile Home Subdivision, 5430 Five Oaks Drive, Harris County; Maple Leaf Mobile Home Subdivision, 9502 Sugar Maple, Harris County; and Oakland Village Mobile Home Community, 9915 Zaka Road, Harris County</p> <p>TYPE OF OPERATION: Public water supplies</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 28, 2011. 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: Mr. Charles Jerry Nowling, President, J&S Water Company, L.L.C., P.O. Box 1165, Highlands, Texas 77562 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Reviews Relating to this Case: October 26, 27, and 28, 2010</p> <p>Date of NOV/NOE Relating to this Case: October 29, 2010 (NOE)</p> <p>Background Facts: These were record reviews.</p> <p>WATER</p> <p>Failed to adopt and submit to the Executive Director for approval by the extension due date of June 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations [30 TEX. ADMIN. CODE §§ 290.39(o)(1) and 291.162(a) and (j) and TEX. WATER CODE § 13.1395(b)(2)].</p>	<p>Total Assessed: \$873</p> <p>Total Deferred: \$174 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$699</p> <p>Compliance History Classification: Person/CN – Average Site/RN – N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted Emergency Preparedness Plans for the Facilities on November 3, 2010.</p>

Additional ID No(s): PWS Nos. 1011832, 1011049, and 1011493



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Nov-2010	Screening	3-Nov-2010	EPA Due	
	PCW	3-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	J&S Water Company, L.L.C. (Five Oaks Mobile Home Subdivision)		
Reg. Ent. Ref. No.	RN101181733		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40702	No. of Violations	1	
Docket No.	2010-1848-UTL-E	Order Type	1660	
Media Program(s)	Public Water Utilities	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Michaelle Sherlock	
		EC's Team	Enforcement Team 2	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 3-Nov-2010

Docket No. 2010-1848-UTL-E

PCW

Respondent J&S Water Company, L.L.C. (Five Oaks Mobile Ho

Policy Revision 2 (September 2002)

Case ID No. 40702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101181733

Media [Statute] Public Water Utilities

Enf. Coordinator Michaelle Sherlock

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>)	1	5%
	Other written NOVs	2	4%
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)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

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

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

Screening Date 3-Nov-2010

Docket No. 2010-1848-UTL-E

PCW

Respondent J&S Water Company, L.L.C. (Five Oaks Mobile Home Subdivisio

Policy Revision 2 (September 2002)

Case ID No. 40702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101181733

Media [Statute] Public Water Utilities

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(o)(1), 291.162(a) and (j) and Tex. Water Code § 13.1395(b)(2)

Violation Description Failed to adopt and submit to the Executive Director for approval by the extension due date of June 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$450

\$50

Violation Events

Number of Violation Events 6 Number of violation days 155

Table for event frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$300

Six monthly events are recommended, calculated from the extended date the plan was due, June 1, 2010, to the date of compliance, November 3, 2010.

Good Faith Efforts to Comply

10.0% Reduction

\$30

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent achieved compliance on November 3, 2010.

Violation Subtotal \$270

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$297

This violation Final Assessed Penalty (adjusted for limits) \$297

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Five Oaks Mobile Home Subdivision)
Case ID No. 40702
Reg. Ent. Reference No. RN101181733
Media Public Water Utilities
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)	\$328	1-Jun-2010	3-Nov-2010	0.42	\$7	n/a	\$7

Notes for DELAYED costs

The delayed costs include the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop and submit an emergency preparedness plan. Date required is the deadline the plan was due to the TCEQ. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$328

TOTAL

\$7



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Nov-2010	Screening	3-Nov-2010	EPA Due	
	PCW	3-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	J&S Water Company, L.L.C. (Oakland Village Mobile Home Community)		
Reg. Ent. Ref. No.	RN101263655		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40702	No. of Violations	1	
Docket No.	2010-1848-UTL-E	Order Type	1660	
Media Program(s)	Public Water Utilities	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Michaelle Sherlock	
		EC's Team	Enforcement Team 2	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** **\$15**

Notes: Enhancement for one NOV with same/similar 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** **\$30**

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

Total EB Amounts: \$7
Approx. Cost of Compliance: \$328
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$285**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$285**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$285**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$57**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$228**

Screening Date 3-Nov-2010

Docket No. 2010-1848-UTL-E

PCW

Respondent J&S Water Company, L.L.C. (Oakland Village Mobi

Policy Revision 2 (September 2002)

Case ID No. 40702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101263655

Media [Statute] Public Water Utilities

Enf. Coordinator Michaelle Sherlock

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 3-Nov-2010

Docket No. 2010-1848-UTL-E

PCW

Respondent J&S Water Company, L.L.C. (Oakland Village Mobile Home Com

Policy Revision 2 (September 2002)

Case ID No. 40702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101263655

Media [Statute] Public Water Utilities

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(o)(1), 291.162(a) and (j) and Tex. Water Code § 13.1395(b)(2)

Violation Description Failed to adopt and submit to the Executive Director for approval by the extension due date of June 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$450

\$50

Violation Events

Number of Violation Events 6 Number of violation days 155

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

Violation Base Penalty \$300

Six monthly events are recommended, calculated from the extended date the plan was due, June 1, 2010, to the date of compliance, November 3, 2010.

Good Faith Efforts to Comply

10.0% Reduction

\$30

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

Notes The Respondent achieved compliance on November 3, 2010.

Violation Subtotal \$270

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$285

This violation Final Assessed Penalty (adjusted for limits) \$285

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Oakland Village Mobile Home Community)
Case ID No. 40702
Reg. Ent. Reference No. RN101263655
Media Public Water Utilities
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)	\$328	1-Jun-2010	3-Nov-2010	0.42	\$7	n/a	\$7

Notes for DELAYED costs

The delayed costs include the estimated amount (\$41/hr labor and administrative cost x 8 hrs) to develop and submit an emergency preparedness plan. Date required is the deadline the plan was due to the TCEQ. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$328	TOTAL	\$7
-----------------------------------	-------	--------------	-----



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Nov-2010	Screening	3-Nov-2010	EPA Due	
	PCW	3-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	J&S Water Company, L.L.C. (Maple Leaf Mobile Home Subdivision)		
Reg. Ent. Ref. No.	RN102680311		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40702	No. of Violations	1
Docket No.	2010-1848-UTL-E	Order Type	1660
Media Program(s)	Public Water Utilities	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michaelle Sherlock
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

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

Culpability Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 3-Nov-2010

Docket No. 2010-1848-UTL-E

PCW

Respondent J&S Water Company, L.L.C. (Maple Leaf Mobile Hc

Policy Revision 2 (September 2002)

Case ID No. 40702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102680311

Media [Statute] Public Water Utilities

Enf. Coordinator Michaelle Sherlock

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>)	1	5%
	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)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

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

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

Screening Date 3-Nov-2010

Docket No. 2010-1848-UTL-E

PCW

Respondent J&S Water Company, L.L.C. (Maple Leaf Mobile Home Subdivisi

Policy Revision 2 (September 2002)

Case ID No. 40702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102680311

Media [Statute] Public Water Utilities

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.39(o)(1), 291.162(a) and (j) and Tex. Water Code § 13.1395(b)(2)

Violation Description Failed to adopt and submit to the Executive Director for approval by the extension due date of June 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$500

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%). Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$450

\$50

Violation Events

Number of Violation Events 6 Number of violation days 155

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$300

Six monthly events are recommended, calculated from the extended date the plan was due, June 1, 2010, to the date of compliance, November 3, 2010.

Good Faith Efforts to Comply

Table for Good Faith Efforts: 10.0% Reduction. Columns: Before NOV, NOV to EDPRP/Settlement Offer. Rows: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes: The Respondent achieved compliance on November 3, 2010.

Violation Subtotal \$270

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7 Violation Final Penalty Total \$291

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

Economic Benefit Worksheet

Respondent J&S Water Company, L.L.C. (Maple Leaf Mobile Home Subdivision)
Case ID No. 40702
Reg. Ent. Reference No. RN102680311
Media Public Water Utilities
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)	\$328	1-Jun-2010	3-Nov-2010	0.42	\$7	n/a	\$7

Notes for DELAYED costs

The delayed costs include the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop and submit an emergency preparedness plan. Date required is the deadline the plan was due to the TCEQ. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$328

TOTAL

\$7

service pump.

Self Report? NO Classification Minor

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

Description: Disinfection
Failure to provide operable scales for the chlorine cylinders, which must be repaired or replaced so the amount of disinfectant remaining for use can be easily determined at all times

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v)

Description: Failure to provide emergency power to deliver water to the distribution system in the event of the loss of normal power supply or an emergency interconnection with another public water supply. Under emergency conditions, the combined systems must be able to supply at least 0.35 gallons per minute per connection.

Date 09/24/2010 (864763) CN602975252

Self Report? NO Classification Moderate

Citation: 2B TWC Chapter 13, SubChapter A 13.1395(b)(2)

30 TAC Chapter 290, SubChapter D 290.39(o)(1)

30 TAC Chapter 291, SubChapter L 291.162(a)

30 TAC Chapter 291, SubChapter L 291.162(j)

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

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

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN602975252 J&S Water Company, L. L. C. Classification: AVERAGE Rating: 0.63

Regulated Entity: RN102680311 MAPLE LEAF MOBILE HOME SUBDIVISION Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011493

Location: 9502 SUGAR MAPLE KEY MAP 410P

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 12, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 12, 2005 to November 12, 2010

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

Name: Michaëlle Sherlock 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? Yes
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 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.)
- | | |
|---|---------------------|
| | (455411) |
| 1 | 04/04/2006 |
| 2 | 10/15/2010 (863377) |
| 3 | 09/21/2010 (864765) |
| 4 | 10/28/2010 (872147) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/25/2010 (863377) CN602975252

Self Report? NO Classification: Minor

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

Description: Failure to post a legible sign at each of its production, treatment, and storage facilities by each community system.

Self Report? NO Classification: Minor

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

Description: Failure to properly maintain the regulated entity by not keeping the well discharge line and the pressure tank rust free and for not keeping the fence line vegetation free.

Self Report? NO Classification: Moderate

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

Description: Failure to compile and maintain current a thorough plant operations manual for operator review and reference.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(vi)

Description: Failure to maintain the records of tests conducted on backflow prevention assemblies and maintenance reports.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)
Description: Failure to maintain and make available an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(i)
Description: Failure to a well capacity of 0.6 gallons per minute per connection.
Date 09/24/2010 (864765) CN602975252

Self Report? NO Classification Moderate
Citation: 2B TWC Chapter 13, SubChapter A 13.1395(b)(2)
30 TAC Chapter 290, SubChapter D 290.39(o)(1)
30 TAC Chapter 291, SubChapter L 291.162(a)
30 TAC Chapter 291, SubChapter L 291.162(j)
Description: Failure to submit an Emergency Preparedness Plan by the required deadline.

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
J&S WATER COMPANY, L.L.C.
RN101181733
RN102680311
RN101263655

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1848-UTL-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding J&S Water Company, L.L.C. ("the Respondent") under the authority of TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates public water supplies that serve at least 25 people per day for at least 60 days per year at the following locations in Texas ("the Facilities"):
 - a. Five Oaks Mobile Home Subdivision, located at 5430 Five Oaks Drive in Harris County, Texas that has approximately 274 service connections;
 - b. Maple Leaf Mobile Home Subdivision, located at 9502 Sugar Maple in Harris County, Texas that has approximately 189 service connections; and
 - c. Oakland Village Mobile Home Community, located at 9915 Zaka Road in Harris County, Texas that has approximately 48 service connections.

2. The Respondent owns and operates, in Texas and for compensation, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use. The Respondent is not exempt from regulation under TEX. WATER. CODE ch. 13 or the rules of the Commission.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on November 4, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Hundred Seventy-Three Dollars (\$873) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Ninety-Nine Dollars (\$699) of the administrative penalty and One Hundred Seventy-Four Dollars (\$174) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted Emergency Preparedness Plans for the Facilities on November 3, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facilities, the Respondent is alleged to have failed to adopt and submit to the Executive Director for approval by the extension due date of June 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations, in violation of 30 TEX. ADMIN. CODE §§ 290.39(o)(1), 291.162(a) and (j) and TEX. WATER CODE § 13.1395(b)(2), as documented during record reviews conducted on October 26, October 27, and October 28, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: J&S Water Company, L.L.C., Docket No. 2010-1848-UTL-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 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 Facilities operations referenced in this Agreed Order.
3. 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.
4. 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Joan Szolier

For the Executive Director

3/15/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Charles Jerry Nowling

Signature

1-14-11

Date

Charles Jerry Nowling

Name (Printed or typed)
Authorized Representative of
J&S Water Company, L.L.C.

President

Title

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