EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1419-PWS-E **TCEQ ID:** RN102692076 **CASE NO.:** 40306
RESPONDENT NAME: Neal's Lodges, Inc.

ORDER TYPE:		
__1660 AGREED ORDER	_X_ FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
_X_ PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Neal's Vacation Lodge, on State Highway 127, approximately two miles east of Highway 83, Concan, Uvalde County

TYPE OF OPERATION: Campground and recreational vehicle park with a public water supply

SMALL BUSINESS: __X__ **Yes** ___ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 21, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Ms. Carol H. Graves, Corporation Secretary/Director, Neal's Lodges, Inc., 1207 Oak Street, Bandera, Texas 78003
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** June 15, 2010 **Date of NOV/NOE Relating to this Case:** July 1, 2010 (NOE) **Background Facts:** This was a records review. **WATER** 1) Failed to comply with the maximum contaminant level ("MCL") for total coliform and failed to provide public notification of the exceedance of the MCL for total coliform [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a)]. 2) Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to conduct routine sampling [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].	**Total Assessed:** $1,958 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $165 (remaining $1,793 due in 11 monthly payments of $163 each) **Compliance History Classification:** Person/CN – Poor Site/RN – N/A **Major Source:** __ Yes __X__ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** The Respondent has three repeated enforcement actions over the prior five year period for the same violation.	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and that copies are provided to the Commission; and ii. Begin complying with applicable coliform monitoring requirements by collecting all required routine distribution samples and by providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting. b. 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 a.

Additional ID No(s).: Public Water Supply ID No. 2320014

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	26-Jul-2010					
PCW	23-Aug-2010	**Screening**	20-Aug-2010	**EPA Due**	31-Aug-2009	

RESPONDENT/FACILITY INFORMATION

Respondent	Neal's Lodges, Inc.		
Reg. Ent. Ref. No.	RN102692076		
Facility/Site Region	13-San Antonio	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40306	**No. of Violations**	2
Docket No.	2010-1419-PWS-E	**Order Type**	Findings
Media Program(s)	Public Water Supply	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Rebecca Clausewitz
		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*: $1,250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 37.0% Enhancement — *Subtotals 2, 3, & 7*: $462

Notes: Enhancement for five NOVs with same/similar violations, one prior NOV containing a dissimilar violation, and the poor performer compliance history person classification.

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*: $0

Economic Benefit — 0.0% Enhancement* — *Subtotal 6*: $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$261
Approx. Cost of Compliance	$325

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $1,712

OTHER FACTORS AS JUSTICE MAY REQUIRE — 14.4% — *Adjustment*: $246

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance.

Final Penalty Amount: $1,958

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $1,958

DEFERRAL — 0.0% Reduction — *Adjustment*: $0

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY: $1,958

Screening Date 20-Aug-2010 **Docket No.** 2010-1419-PWS-E **PCW**

Respondent Neal's Lodges, Inc.

Policy Revision 2 (September 2002)

Case ID No. 40306

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102692076

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

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 (*number of NOVs meeting criteria*)	5	25%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*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) 27%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for five NOVs with same/similar violations, one prior NOV containing a dissimilar violation, and the poor performer compliance history person classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 20-Aug-2010 **Docket No.** 2010-1419-PWS-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent Neal's Lodges, Inc.

Case ID No. 40306

Reg. Ent. Reference No. RN102692076

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(B) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the maximum contaminant level ("MCL") for total coliform and failed to provide public notification of the exceedance of the MCL for total coliform for the month of January 2008.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual		x	
	Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $750

$250

Violation Events

Number of Violation Events: 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $250

Economic Benefit (EB) for this violation

Estimated EB Amount $125

Statutory Limit Test

Violation Final Penalty Total $392

This violation Final Assessed Penalty (adjusted for limits) $392

Economic Benefit Worksheet

Respondent Neal's Lodges, Inc.
Case ID No. 40306
Reg. Ent. Reference No. RN102692076
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$100	1-Jan-2008	28-Feb-2010	2.16	$1	$14	$15
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	The delayed cost includes the amount to develop procedures to ensure that all necessary public notifications are provided in a timely manner to those persons served by the Facility, calculated from the date of the initial exceedance to the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$100	1-Jan-2008	31-Jan-2008	1.00	$5	$100	$105
Other (as needed)	$5	1-Feb-2008	29-Feb-2008	0.00	$0	$5	$5
Notes for AVOIDED costs	The one-time avoided cost includes the estimated amount for additional sampling and oversight that could have prevented the exceedance, calculated for the month in which the exceedance occurred. The other avoided cost inlcudes the estimated amount to post public notice ($5 per notice), calculated for the period in which notice should have been provided.						

Approx. Cost of Compliance $205

TOTAL $125

Screening Date 20-Aug-2010 **Docket No.** 2010-1419-PWS-E **PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Respondent Neal's Lodges, Inc.

Case ID No. 40306

Reg. Ent. Reference No. RN102692076

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

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

Violation Description Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to conduct routine sampling for the months of June 2008, November 2008, August 2009, and February 2010.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to conduct routine sampling and provide public notice could result in customers of the facility becoming exposed to signficiant amounts of undetected contaminants, which would exceed level protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events: 4 — 119 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $1,000

Four monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $136

Statutory Limit Test

Violation Final Penalty Total $1,567

This violation Final Assessed Penalty (adjusted for limits) $1,567

Economic Benefit Worksheet

Respondent Neal's Lodges, Inc.
Case ID No. 40306
Reg. Ent. Reference No. RN102692076
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$100	30-Jun-2008	28-Feb-2010	2.58	$13	$100	$113
Other (as needed)	$20	1-Sep-2008	31-May-2010	2.66	$3	$20	$23
Notes for AVOIDED costs	The one-time avoided costs include the estimated amount to collect one routine sample per month ($25), calculated for period from the first month in which no sample was taken to the last month in which no sample was taken. The other avoided cost includes the estimated amount to post public notice ($5 per notice), calculated from the first month is in which notice should have been provided to the last month in which notice should have been provided.						

Approx. Cost of Compliance $120

TOTAL $136

Compliance History Report

Customer/Respondent/Owner-Operator: CN601026370 Neal's Lodges, Inc. Classification: POOR Rating: 107.50

Regulated Entity: RN102692076 NEALS VACATION LODGE Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2320014

Location: on Highway 127, approx. two miles east of State Highway 83, Concan, Uvalde County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 24, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 24, 2005 to August 24, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes

2. Has there been a (known) change in ownership/operator of the site during the compliance period? No

3. If Yes, who is the current owner/operator? N/A

4. If Yes, who was/were the prior owner(s)/operator(s)? N/A

5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 07/26/2007 (566755)
2 05/31/2010 (825208)
3 06/30/2010 (825310)
4 06/30/2010 (825319)
5 06/30/2010 (825325)
6 06/30/2010 (825327)
7 07/23/2010 (829498)

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

Date: 07/24/2007 (566755) CN601026370
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)
Description: Failure to compile Monthly Reports of Water Works Operation each month and keep those reports on file, for commission review, for at least 2 years.

Date: 01/11/2008 (825208) CN601026370
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 01/2008 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(B)
Description: TCR PN MCL Violation 01/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

Date: 07/31/2008 (825310) CN601026370
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2009 (825319) CN601026370
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 10/02/2009 (825325) CN601026370
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 08/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/29/2010 (825327) CN601026370
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)
Description: TCR PN Routine Monitoring Violation 02/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING NEAL'S LODGES, INC. RN102692076	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1419-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 Neal's Lodges, 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 campground and recreational vehicle park with a public water supply on State Highway 127, approximately two miles east of Highway 83 in Concan, Uvalde County, Texas (the "Facility") that has approximately 50 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on June 15, 2010, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") for total coliform and did not provide public notification of the exceedance of the MCL for total coliform for the month of January 2008.

3. During a record review conducted on June 15, 2010, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis and did not provide public notification of the failure to conduct routine sampling for the months of June 2008, November 2008, August 2009, and February 2010

4. The Respondent received notice of the violations on July 23, 2010.

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 comply with the MCL for total coliform and failed to provide public notification of the exceedance of the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a).

3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to conduct routine sampling, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d).

4. 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.

5. An administrative penalty in the amount of One Thousand Nine Hundred Fifty-Eight Dollars ($1,958) 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 One Hundred Sixty-Five Dollars ($165) of the administrative penalty. The remaining amount of One Thousand Seven Hundred Ninety-Three Dollars ($1,793) of the administrative penalty shall be payable in eleven (11) monthly payments of One Hundred Sixty-Three Dollars ($163) 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 Nine Hundred Fifty-Eight Dollars ($1,958) as set forth in Section II, Paragraph 5 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: Neal's Lodges, Inc., Docket No. 2010-1419-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:

      i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and that copies are provided to the Commission, in accordance with 30 TEX. ADMIN. CODE § 290.122; and

      ii. Begin complying with applicable coliform monitoring requirements by collecting all required routine distribution samples and by providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.

   b. 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 No. 2.a. 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:

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

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 separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or

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

9. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director — Date 2/7/2011

I, the undersigned, have read and understand the attached Agreed Order in the matter of Neal's Lodges, Inc. I am authorized to agree to the attached Agreed Order on behalf of Neal's Lodges, 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, Neal's Lodges, 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.

Signature — Date 11/28/10

CAROL H GRAVES — Title Corp. Secretary

Name (Printed or typed)
Authorized Representative of
Neal's Lodges, Inc.

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