Executive Summary – Enforcement Matter – Case No. 40091
The Anglers Lodge, LLC
RN101243277
Docket No. 2010-1232-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Highway 90 West, approximately 7 miles west of Del Rio, Val Verde County

Type of Operation:
Public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	$219.90
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: May 13, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed:	$15,052
Amount Deferred for Expedited Settlement:	N/A
Amount Deferred for Financial Inability to Pay:	N/A
Total Paid to General Revenue:	$0
Total Due to General Revenue:	$15,052
SEP Conditional Offset:	N/A

Compliance History Classifications:
Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 40091
The Anglers Lodge, LLC
RN101243277
Docket No. 2010-1232-PWS-E

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: June 20, 2010

Date(s) of NOV(s): See Compliance History – 25 NOVs

Date(s) of NOE(s): July 22, 2010

Violation Information

1. Failed to collect routine monitoring samples for coliform analysis for the months of February 2008, March 2008, and June 2008 through April 2010; and failed to post public notification for failure to collect routine monitoring samples for the months of February 2008, March 2008, and June 2008 through February 2010 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92330012 for Fiscal Year 2010 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 10 days:
   a. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and
   b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting.
2. Within 30 days, submit payment for all outstanding fees, interest and late penalties.
3. Written 180 days, submit certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: March 2, 2011

Date(s) Green Card(s) Signed: March 4, 2011

Date(s) Answer(s) Filed: N/A

SOAH Referral Date: N/A

Contact Information

TCEQ Attorneys: Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Katy Schumann, Water Enforcement Section, (512) 239- 2602

TCEQ Regional Contact: Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 791-6611

Respondent: Carl Wengenroth, Manager, The Anglers Lodge, LLC, 8969 W. US Highway 90, Del Rio, Texas 78840

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

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

DATES					
Assigned	26-Jul-2010				
PCW	28-Jul-2010	Screening	26-Jul-2010	EPA Due	31-May-2010

RESPONDENT/FACILITY INFORMATION

Respondent	THE ANGLERS LODGE, LLC		
Reg. Ent. Ref. No.	RN101243277		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40091	No. of Violations	2
Docket No.	2010-1232-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		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* **$6,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **127.0%** Enhancement *Subtotals 2, 3, & 7* **$7,937**

Notes: Enhancement for 25 written notices of violation (NOVs) with same/similar violations as those in the current enforcement action and one dissimilar NOV.

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**

Total EB Amounts $870
Approx. Cost of Compliance $850

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$14,187**

OTHER FACTORS AS JUSTICE MAY REQUIRE **6.1%** *Adjustment* **$865**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs of compliance.

Final Penalty Amount **$15,052**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$15,052**

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 **$15,052**

Screening Date	26-Jul-2010	**Docket No.**	2010-1232-PWS-E	**PCW**
Respondent	THE ANGLERS LODGE, LLC			*Policy Revision 2 (September 2002)*
Case ID No.	40091			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101243277			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

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*)	25	125%
	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) 127%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 25 written notices of violation (NOVs) with same/similar violations as those in the current enforcement action and one dissimilar NOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 127%

Screening Date	26-Jul-2010	**Docket No.** 2010-1232-PWS-E	**PCW**
Respondent	THE ANGLERS LODGE, LLC		*Policy Revision 2 (September 2002)*
Case ID No.	40091		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101243277		
Media [Statute]	Public Water Supply		
Enf. Coordinator	Katy Schumann		

Violation Number 1

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

Violation Description Failed to collect routine monitoring samples for coliform analysis for the months of February 2008, March 2008 and June 2008 through April 2010, and failed to post public notification for failure to collect routine monitoring samples for the months of February 2008, March 2008 and June 2008 through 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 collect routine monitoring water samples could expose the public to a significant amount of undetected contaminants that would exceed levels protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 25 | 759 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $6,250

Twenty-five 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 $6,250

Economic Benefit (EB) for this violation

Estimated EB Amount $870

Statutory Limit Test

Violation Final Penalty Total $15,053

This violation Final Assessed Penalty (adjusted for limits) $15,053

Economic Benefit Worksheet

Respondent THE ANGLERS LODGE, LLC
Case ID No. 40091
Reg. Ent. Reference No. RN101243277
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$100	20-Jun-2010	26-Jan-2011	0.60	$0	$4	$4
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 estimated amount to implement training on procedures necessary to ensure that all public notifications are provided in a timely manner to the customers of the Facility. The date required is the date of the file review. The final date is 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]	$625	29-Feb-2008	30-Apr-2010	3.08	$96	$625	$721
Other (as needed)	$125	31-Mar-2008	31-May-2010	3.08	$19	$125	$144

Notes for AVOIDED costs: The avoided costs include the estimated amount to collect a total of twenty-five routine water samples ($25 per sample) and provide public notice for the failure to sample ($5 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance $850

TOTAL $870

Screening Date	26-Jul-2010	**Docket No.**	2010-1232-PWS-E	**PCW**
Respondent	THE ANGLERS LODGE, LLC			*Policy Revision 2 (September 2002)*
Case ID No.	40091			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101243277			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702

Violation Description Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92330012 for Fiscal Year 2010.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Adjustment $1,000

$0

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 $0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes

Violation Subtotal $0

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent THE ANGLERS LODGE, LLC
Case ID No. 40091
Reg. Ent. Reference No. RN101243277
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	N/A						
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	N/A						

Approx. Cost of Compliance $0

TOTAL $0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603687492	THE ANGLERS LODGE, LLC	Classification:	Rating:
Regulated Entity:	RN101243277	ANGLERS LODGE	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION		2330012

Location: HWY 90 WEST, APPROXIMATELY 7 MILES W OF DEL RIO, VAL VERDE COUNTY, TX

TCEQ Region: REGION 16 - LAREDO

Date Compliance History Prepared: July 26, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 26, 2005 to July 26, 2010

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

Name: Katy Schumann Phone: (512) 239 - 2602

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? ANGLERS LODGE, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)? TONY GREGORY
5. When did the change(s) in owner or operator occur? 11/12/2006

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	05/08/2009	(741814)
2	01/21/2010	(785611)
3	06/29/2010	(829180)
4	07/15/2010	(829622)
5	07/15/2010	(829627)
6	07/15/2010	(829643)
7	07/15/2010	(829647)
8	07/15/2010	(829656)
9	07/15/2010	(829660)
10	07/15/2010	(829663)
11	07/15/2010	(829666)
12	07/15/2010	(829715)
13	07/15/2010	(829719)
14	07/15/2010	(829720)
15	07/15/2010	(829725)
16	07/15/2010	(829732)
17	07/15/2010	(829733)
18	07/15/2010	(829735)
19	07/15/2010	(829871)
20	07/15/2010	(829876)
21	07/15/2010	(829882)
22	07/15/2010	(829889)
23	07/15/2010	(829898)
24	07/15/2010	(829904)
25	07/15/2010	(829908)
26	07/15/2010	(829911)
27	07/15/2010	(829913)
28	07/23/2010	(841762)

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

1. Date: 04/16/2008 (829180)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 02/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 02/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

2. Date: 04/29/2008 (829622)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

3 Date: 07/31/2008 (829627)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
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)
Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

4. Date: 09/03/2008 (829643)CN603687492

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

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

5. Date: 10/10/2008 (829647)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

6. Date: 11/19/2008 (829656)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

7. Date: 12/09/2008 (829660)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

8. Date: 01/13/2009 (829663)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
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)
Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

9. Date: 03/09/2009 (829666)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

10. Date: 04/07/2009 (829715)CN603687492

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

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

11. Date: 05/06/2009 (829719)CN603687492

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

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

12. Date: 05/12/2009 (741814)CN603687492

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
Description: Failure to maintain weekly distribution chlorine monitoring records.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)
Description: Failure to conduct annual tank inspections on the pressure tank.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)
Description: Failure to maintain a record of the volume of water treated.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)
Description: Failure to provide a flow measuring device on the well to measure production yields and provide for the accumulation of water production data.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(d)(1)(C)(ii)

Description: Failure to measure the free chlorine residual to a minimum accuracy of +/- 0.1 mg/L.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

Description: Failure to make the system's operating records access ble for review during inspections.

13. Date: 05/26/2009 (829720)CN603687492

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 03/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

14. Date: 06/15/2009 (829725)CN603687492

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 04/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

15. Date: 07/14/2009 (829732)CN603687492

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

16. Date: 08/04/2009 (829733)CN603687492

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 06/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Routine Monitoring Violation 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

17. Date: 09/16/2009 (829735)CN603687492

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 07/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

Description: TCR PN Routine Monitoring Violation 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

18. Date: 10/02/2009 (829871)CN603687492

Self Report? NO Classification: Moderate

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

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)

Description: TCR PN Routine Monitoring Violation 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

19. Date: 11/05/2009 (829876)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

20. Date: 12/08/2009 (829882)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 10/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

21. Date: 01/13/2010 (829889)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 11/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

22. Date: 01/26/2010 (829898)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 12/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

23. Date: 03/16/2010 (829904)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 01/2010 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)
Description: TCR PN Routine Monitoring Violation 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

24. Date: 03/29/2010 (829908)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
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)
Description: TCR PN Routine Monitoring Violation 02/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

25. Date: 05/03/2010 (829911)CN603687492
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)
Description: TCR Routine Monitoring Violation 03/2010 - Failure to collect any routine monitoring sample(s).

26. Date: 06/10/2010 (829913)CN603687492

Self Report? NO Classification: Moderate

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

Description: TCR Routine Monitoring Violation 04/2010 - Failure to collect 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 THE ANGLERS LODGE, LLC; RN101243277	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

DEFAULT ORDER
DOCKET NO. 2010-1232-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, 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 The Anglers Lodge, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located on Highway 90 West approximately seven miles west of Del Rio in Val Verde County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 34 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 June 20, 2010, a TCEQ Central Office investigator documented that Respondent:

   a. Failed to collect routine monitoring samples for coliform analysis for the months of February 2008, March 2008, and June 2008 through April 2010. Also failed to post public notification for failure to collect routine monitoring samples for the months of February 2008, March 2008, and June 2008 through February 2010; and

   b. Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92330012 for Fiscal Year 2010.

3. Respondent received notice of the violations on or about July 27, 2010.

4. 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 The Anglers Lodge, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on March 2, 2011.

5. By letter dated March 2, 2011, 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 March 4, 2011, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.

2. As evidenced by Finding of Fact No.2.a., Respondent failed to collect routine monitoring samples for coliform analysis for the months of February 2008, March 2008, and June 2008 through April 2010; failed to post public notification for failure to collect routine monitoring samples for the months of February 2008, March 2008, and June 2008 through February 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).

3. As evidenced by Finding of Fact No.2.b., Respondent failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 92330012 for Fiscal Year 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. 4 and 5, 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 Finding of Fact No. 6, 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.

6. 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.

7. An administrative penalty in the amount of fifteen thousand fifty-two dollars ($15,052.00) 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.

8. 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 fifteen thousand fifty-two dollars ($15,052.00) 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: The Anglers Lodge, LLC; Docket No. 2010-1232-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 10 days after the effective date of this Order, Respondent shall:

      i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and

      ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and 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 30 days after the effective date of this Order, Respondent shall submit payment for all outstanding fees, interest and late penalties for TCEQ Financial Administration Account No. 92330012. The payment shall be sent with the notation "Re: The Anglers Lodge, LLC, Account No. 92330012" 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

c. Within 180 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:

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

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 TAMMY L. MITCHELL

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Tammy L. Mitchell. 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 The Anglers Lodge, LLC' (the 'EDPRP') was filed in the TCEQ Chief Clerk's office on March 2, 2011.

The EDPRP was mailed to Respondent's last known address on March 2, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt 'green card,' Respondent received notice of the EDPRP on March 4, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

Tammy L. Mitchell, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tammy L. Mitchell, 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 14th day of April, A.D. 2011.

Notary Signature

MARGARET T JACKSON
NOTARY PUBLIC
State of Texas
Comm. Exp. 12-21-2013