

Executive Summary – Enforcement Matter – Case No. 41195
TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park
RN101236917
Docket No. 2011-0289-UTL-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

UTL

Small Business:

No

Location(s) Where Violation(s) Occurred:

Trinity Spring Oaks Mobile Home Park, 4320 Spring Stuebner Road, Harris County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 13, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$194

Amount Deferred for Expedited Settlement: \$38

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$156

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: 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

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RN101236917
Docket No. 2011-0289-UTL-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 14, 2011

Date(s) of NOE(s): February 14, 2011

Violation Information

Failed to submit to the Executive Director for approval by the required deadline, an adoptable emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations [30 TEX. ADMIN. CODE §§ 290.39(o)(1), 291.162(a) and (j) and TEX. WATER CODE § 13.1395(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The emergency preparedness plan was approved on March 9, 2011.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

TCEQ SEP Coordinator: N/A

Respondent: Don Clements, Owner/Member, TRINITY SO PTN, L.P., 4783 County Road 302, Navasota, Texas 77868

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Feb-2011	Screening	23-Feb-2011	EPA Due	
	PCW	23-Feb-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park
Reg. Ent. Ref. No.	RN101236917
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41195	No. of Violations	1
Docket No.	2011-0289-UTL-E	Order Type	1660
Media Program(s)	Public Water Utilities	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		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	\$200
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7	\$14

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

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$20
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$5	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$328		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$194
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$194
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$194
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DEFERRAL	20.0% Reduction	Adjustment	-\$38
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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	\$156
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Screening Date 23-Feb-2011

Docket No. 2011-0289-UTL-E

PCW

Respondent TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 41195

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101236917

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

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) 7%

>> 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 one NOV with same/similar violations and one dissimilar NOV.

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

Screening Date 23-Feb-2011

Docket No. 2011-0289-UTL-E

PCW

Respondent TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 41195

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101236917

Media [Statute] Public Water Utilities

Enf. Coordinator Epifanio Villarreal

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 submit to the Executive Director for approval by the required deadline, an adoptable emergency preparedness plan ("EPP") 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

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$450

\$50

Violation Events

Number of Violation Events 4 103 Number of violation days

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

Violation Base Penalty \$200

Four monthly events are recommended, calculated from the date the EPP was deemed not adoptable, November 12, 2010, to the date of screening, February 23, 2011.

Good Faith Efforts to Comply

10.0% Reduction \$20

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

Notes The Respondent achieved compliance on March 9, 2011.

Violation Subtotal \$180

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$194

This violation Final Assessed Penalty (adjusted for limits) \$194

Economic Benefit Worksheet

Respondent: TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park
Case ID No.: 41195
Reg. Ent. Reference No.: RN101236917
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				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	12-Nov-2010	9-Mar-2011	0.32	\$5	n/a	\$5

Notes for DELAYED costs

The delayed costs includes 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. Final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$328

TOTAL

\$5

Compliance History

Customer/Respondent/Owner-Operator:	CN603661570 TRINITY SO PTN, L.P.	Classification:	Rating:
Regulated Entity:	RN101236917 TRINITY SPRING OAKS MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012090
Location:	4320 Spring Stuebner Road, Harris County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 23, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 23, 2006 to February 23, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Epi Villarreal	Phone:	361-825-3425

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	04/02/2008	(638933)
2	09/03/2010	(858320)
3	02/17/2011	(872245)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/10/2008	(638933)	CN603661570
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(F)(i)		
Description:	Failure to provide 0.45 GPM per connection well production based on the variance granted on 2 Sept 1999.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(F)(iii)		
Description:	Failure to provide 2.0 GPM per connection service pump capacity.		
Date:	09/03/2010	(858320)	CN603661570
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.39(o)(1)		
Description:	Failure to submit an Emergency Preparedness Plan by the required date.		
- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
TRINITY SO PTN, L.P. DBA	§	
TRINITY SPRING OAKS MOBILE	§	TEXAS COMMISSION ON
HOME PARK	§	
RN101236917	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2011-0289-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 TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13. 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 a public water supply at 4320 Spring Stuebner Road in Harris County, Texas (the "Facility") that has approximately 152 service connections and serves at least 25 people per day for at least 60 days per year.
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 or about February 19, 2011.

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 One Hundred Ninety-Four Dollars (\$194) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Fifty-Six Dollars (\$156) of the administrative penalty and Thirty-Eight Dollars (\$38) 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 emergency preparedness plan was approved on March 9, 2011.
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 Facility, the Respondent is alleged to have failed to submit to the Executive Director for approval by the required deadline, an adoptable 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 a record review conducted on February 14, 2011.

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: TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park, Docket No. 2011-0289-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 Facility 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

Joel Szolter
For the Executive Director

6/10/2011
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.

[Signature]
Signature

6/6/11
Date

Don Clement
Name (Printed or typed)

owner/member
Title

Authorized Representative of
TRINITY SO PTN, L.P. dba Trinity Spring Oaks Mobile Home Park

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.