

**Executive Summary – Enforcement Matter – Case No. 44086
Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
RN106216427
Docket No. 2012-0935-PWS-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Double D RV Park 1, in the 600 block of State Highway (“SH”) 72 East, approximately 0.1 mile from the intersection of Farm-to-Market Road 237 and SH 72 near Yorktown, Dewitt County

Type of Operation:

Recreational vehicle park

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 14, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,169

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,169

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications (CN603842964):

Person/CN - Average

Site/RN - Average

Compliance History Classifications (CN604052555):

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 44086
Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
RN106216427
Docket No. 2012-0935-PWS-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 19, 2012

Date(s) of NOE(s): March 27, 2012

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect a set of repeat distribution samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)].
3. Failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result [30 TEX. ADMIN. CODE § 290.109(c)(4)(b)].
4. Failed to comply with the maximum contaminant level for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine and repeat distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring;
- b. Within 195 days, submit written certification demonstrating compliance.

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

**Executive Summary – Enforcement Matter – Case No. 44086
Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
RN106216427
Docket No. 2012-0935-PWS-E**

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Bridgett Lee, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2565; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Brian Dlugosch, Owner, Double D RV Park 1, 1800 FM Road 237,
Yorktown, Texas 78164

Pete Dlugosch, Owner, Double D RV Park 1, 1800 FM Road 237, Yorktown, Texas
78164

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	26-Apr-2012	Screening	1-May-2012	EPA Due	30-Jun-2012
	PCW	2-May-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
Reg. Ent. Ref. No.	RN106216427
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44086	No. of Violations	4
Docket No.	2012-0935-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bridgett Lee
		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	\$1,200
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7	\$240
---------------------------	-------------------	--------------------------------	--------------

Notes: Enhancement for four NOVs with same/similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	------------

Notes: The Respondents do 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	\$729
Approx. Cost of Compliance	\$700

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,440
-----------------------------	-----------------------	----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	50.6%	Adjustment	\$729
---	-------	-------------------	--------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1, 2, 3, and 4.

Final Penalty Amount	\$2,169
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,169
-----------------------------------	-------------------------------	----------------

DEFERRAL	0.0% Reduction	Adjustment	\$0
-----------------	----------------	-------------------	------------

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,169
------------------------	----------------

Screening Date 1-May-2012

Docket No. 2012-0935-PWS-E

PCW

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1

Policy Revision 3 (September 2011)

Case ID No. 44086

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106216427

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

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)	4	20%
	Other written NOVs	0	0%
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 judgments 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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 1-May-2012

Docket No. 2012-0935-PWS-E

PCW

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1

Policy Revision 3 (September 2011)

Case ID No. 44086

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106216427

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 1

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of October 2011 through December 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to collect routine coliform samples could expose customers of the Facility to a significant amount of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3 92 Number of violation days

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

Violation Base Penalty \$450

Three monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$813

This violation Final Assessed Penalty (adjusted for limits) \$813

Economic Benefit Worksheet

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
Case ID No. 44086
Rea. Ent. Reference No. RN106216427
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

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]	\$75	1-Oct-2011	31-Dec-2011	1.17	\$4	\$75	\$79
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to conduct routine coliform sampling (\$25 per sample x 3 samples), calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$75

TOTAL

\$79

Screening Date 1-May-2012

Docket No. 2012-0935-PWS-E

PCW

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1

Policy Revision 3 (September 2011)

Case ID No. 44086

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106216427

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)

Violation Description

Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample. Specifically, it was documented that the Respondents did not submit any of the four required repeat samples after a coliform-positive sample result was reported in January 2012 or any of the fifteen required repeat samples after five coliform-positive sample results were reported in February 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct proper repeat sampling may expose customers of the Facility to contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

60 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$300

Two 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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$500

Violation Final Penalty Total \$542

This violation Final Assessed Penalty (adjusted for limits) \$542

Economic Benefit Worksheet

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
Case ID No. 44086
Req. Ent. Reference No. RN106216427
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

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]	\$475	10-Jan-2012	1-Mar-2012	1.06	\$25	\$475	\$500
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to collect all required repeat samples (\$25 per sample for 19 samples), calculated for the 24 hour periods after the notice of the coliform-positive samples in January and February 2012.

Approx. Cost of Compliance	\$475	TOTAL	\$500
----------------------------	-------	--------------	-------

Screening Date 1-May-2012

Docket No. 2012-0935-PWS-E

PCW

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1

Policy Revision 3 (September 2011)

Case ID No. 44086

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106216427

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description Failed to collect one raw groundwater source Escherichia coli sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result on a routine sample during the months of January and February 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Failure to collect a triggered source monitoring sample could result in customers served by the Facility being exposed to contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

60 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$300

Two 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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$542

This violation Final Assessed Penalty (adjusted for limits) \$542

Economic Benefit Worksheet

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
Case ID No. 44086
Reg. Ent. Reference No. RN106216427
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	10-Jan-2012	11-Jan-2012	0.00	\$0	\$25	\$25
Other (as needed)	\$25	1-Mar-2012	2-Mar-2012	0.00	\$0	\$25	\$25

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to conduct triggered source monitoring of the drinking water at the Facility (\$25 per sample), calculated for the 24 hour period after the Respondent was notified of the coliform-positive result.

Approx. Cost of Compliance \$50

TOTAL \$50

Screening Date 1-May-2012

Docket No. 2012-0935-PWS-E

PCW

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1

Policy Revision 3 (September 2011)

Case ID No. 44086

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106216427

Media [Statute] Public Water Supply

Enf. Coordinator Bridgett Lee

Violation Number 4

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

Violation Description Failed to comply with the Maximum Contaminant Level for total coliform during the month of February 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes As a result of the exceedance, customers of the Facility have been exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

29 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$150

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$271

This violation Final Assessed Penalty (adjusted for limits) \$271

Economic Benefit Worksheet

Respondent Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
Case ID No. 44086
Reg. Ent. Reference No. RN106216427
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Feb-2012	29-Feb-2012	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to provide the additional oversight necessary to prevent or avoid the exceedance, calculated for the month the exceedance occurred.

Approx. Cost of Compliance \$100

TOTAL \$100

Compliance History Report

Customer/Respondent/Owner-Operator: CN603842964 DLUGOSCH, PETE A Classification: AVERAGE Rating: 3.01

Regulated Entity: RN106216427 DOUBLE D RV PARK 1 Classification: AVERAGE Site Rating: 3.01

ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER R14106216427
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0620023

Location: IN THE 600 BLOCK OF STATE HWY 72 EAST
APPROXIMATELY 0.1 MILE FROM THE INTERSECTION OF
FM 237 AND STATE HWY 72 NEAR YORKTOWN

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: May 1, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 1, 2007 to May 1, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Bridgett Lee Phone: (512) 239 - 2565

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

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 | 03/22/2012 | (994429) |
| 2 | 03/22/2012 | (995310) |
| 3 | 03/22/2012 | (995331) |
| 4 | 03/22/2012 | (995344) |
| 5 | 03/30/2012 | (995359) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|--|----------|--------------------------|
| Date: | 02/29/2012 | (995310) | CN603842964 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7) | | |
| Description: | TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample(s). | | |
| Date: | 02/29/2012 | (994429) | CN603842964 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.109(f)(5) | | |

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 10/2011 - Failure to collect any routine monitoring sample(s).

Date: 03/06/2012 (995344) CN603842964

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 02/2012 - System exceeded a maximum contaminant level.

Date: 03/15/2012 (995331) CN603842964

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

Description: TCR Routine Monitoring Violation 12/2011 - 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

Compliance History Report

Customer/Respondent/Owner-Operator: CN604052555 DLUGOSCH, BRIAN Classification: Rating:
Regulated Entity: RN106216427 DOUBLE D RV PARK 1 Classification: Site Rating:
ID Number(s): WATER QUALITY NON PERMITTED ID NUMBER
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0620023
Location: IN THE 600 BLOCK OF STATE HWY 72 EAST
APPROXIMATELY 0.1 MILE FROM THE INTERSECTION
OF FM 237 AND STATE HWY 72 NEAR YORKTOWN
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: May 1, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 1, 2007 to May 1, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Bridgett Lee Phone: (512) 239 - 2565

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
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. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: 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 03/22/2012 (994429)
 - 2 03/22/2012 (995310)
 - 3 03/22/2012 (995331)
 - 4 03/22/2012 (995344)
 - 5 03/30/2012 (995359)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/29/2012 (995310) CN604052555
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample(s).

Date: 02/29/2012 (994429) CN604052555
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 10/2011 - Failure to collect any routine monitoring sample(s).

Date: 03/06/2012 (995344) CN604052555
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 02/2012 - System exceeded a maximum contaminant level.

Date: 03/15/2012 (995331) CN604052555
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 12/2011 - 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
BRIAN DLUGOSCH AND PETE A.	§	TEXAS COMMISSION ON
DLUGOSCH DBA DOUBLE D RV	§	
PARK 1	§	
RN106216427	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2012-0935-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 Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1 (“Respondents”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have 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 Respondents agree 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 Respondents.

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

I. FINDINGS OF FACT

1. The Respondents own and operate a Recreational Vehicle Park in the 600 block of State Highway 72 East, approximately 0.1 mile from the intersection of Farm-to-Market Road 237 and State Highway 72 near Yorktown, DeWitt County, Texas (the "Facility") that has approximately 43 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on March 19, 2012, TCEQ staff documented that the Respondents did not collect routine distribution water samples for coliform analysis for the months of October 2011 through December 2011.
3. During a record review on March 19, 2012, TCEQ staff documented that the Respondents did not submit any of the four required repeat samples after a coliform-positive sample result was reported in January 2012 or any of the fifteen required repeat samples after five coliform-positive sample results were reported in February 2012.
4. During a record review on March 19, 2012, TCEQ staff documented that the Respondents did not collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result on a routine sample during the months of January and February 2012.
5. During a record review on March 19, 2012, TCEQ staff documented that the Respondents did not comply with the Maximum Contaminant Level ("MCL") for total coliform during the month of February 2012.
6. The Respondents received notice of the violations on March 30, 2012.

II. CONCLUSIONS OF LAW

1. The Respondents are 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 Respondents failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondents failed to collect a set of repeat distribution samples within 24 hours of being notified of a total coliform-positive sample result on a routine sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).

4. As evidenced by Findings of Fact No. 4, the Respondents failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of being notified of a distribution total coliform-positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(b).
5. As evidenced by Findings of Fact No. 5, the Respondents failed to comply with the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondents 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.
7. An administrative penalty in the amount of Two Thousand One Hundred Sixty-Nine Dollars (\$2,169) 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 Respondents have paid the Two Thousand One Hundred Sixty-Nine Dollar (\$2,169) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondents are assessed an administrative penalty in the amount of Two Thousand One Hundred Sixty-Nine Dollars (\$2,169) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' 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: Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1, Docket No. 2012-0935-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 Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine and repeat 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 months of compliant monitoring;
 - 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. 3.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:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are 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.

5. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents 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.
9. 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.
10. 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.

Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1
DOCKET NO. 2012-0935-PWS-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Randy Jansen
For the Executive Director

10/23/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1. I am authorized to agree to the attached Agreed Order on behalf of Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1, 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, Brian Dlugosch and Pete A. Dlugosch dba Double D RV Park 1 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.

Brian Dlugosch
Signature

10-10-12
Date

Brian Dlugosch
Name (Printed or typed)
Authorized Representative of
Brian Dlugosch dba Double D RV Park 1

owner
Title

Pete Dlugosch
Signature

10-10-12
Date

Pete Dlugosch
Name (Printed or typed)
Authorized Representative of
Pete A. Dlugosch dba Double D RV Park 1

owner
Title

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.