

Executive Summary – Enforcement Matter – Case No. 42398
Esther E. Boroff dba Williams Trailer Court
RN101212421
Docket No. 2011-1526-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:

Williams Trailer Court, 4307 Angus Road, Odessa, Ector County

Type of Operation:

Mobile home park with a 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: January 20, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,807

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,807

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

Executive Summary – Enforcement Matter – Case No. 42398
Esther E. Boroff dba Williams Trailer Court
RN101212421
Docket No. 2011-1526-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 18, 2011

Date(s) of NOE(s): July 22, 2011

Violation Information

1. Failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].
2. Failed to submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director each quarter, by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
3. Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, begin complying with all applicable coliform monitoring requirements, including the collection of all routine distribution samples and triggered source monitoring samples when required, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting;
- b. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs;
- c. Within 45 days, submit written certification as described in Ordering Provision e. and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision b.
- d. Within 90 days, begin submitting DLQORs to the Executive Director each quarter, by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.

Executive Summary – Enforcement Matter – Case No. 42398
Esther E. Boroff dba Williams Trailer Court
RN101212421
Docket No. 2011-1526-PWS-E

e. 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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Rebecca Clausewitz, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4012; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Esther E. Boroff, Owner, Williams Trailer Court, 4307 Angus Road,
Odessa, Texas 79764-3821
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Aug-2011	Screening	17-Aug-2011	EPA Due	30-Sep-2011
	PCW	29-Aug-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Esther E. Boroff dba Williams Trailer Court
Reg. Ent. Ref. No.	RN101212421
Facility/Site Region	7-Midland
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42398	No. of Violations	3
Docket No.	2011-1526-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,200
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7
		\$300

Notes: Enhancement for five NOV's with same/similar violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

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

Total EB Amounts	\$307
Approx. Cost of Compliance	\$283

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,500
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	20.5%	Adjustment	\$307
---	-------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: An enhancement is recommended to capture the avoided costs associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount	\$1,807
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,807
-----------------------------------	-------------------------------	---------

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	\$1,807
------------------------	---------

Screening Date 17-Aug-2011

Docket No. 2011-1526-PWS-E

PCW

Respondent Esther E. Boroff dba Williams Trailer Court

Policy Revision 2 (September 2002)

Case ID No. 42398

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212421

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 25%

>> 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 five NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 17-Aug-2011

Docket No. 2011-1526-PWS-E

PCW

Respondent Esther E. Boroff dba Williams Trailer Court

Policy Revision 2 (September 2002)

Case ID No. 42398

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212421

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

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 notification of a distribution total coliform-positive sample during the month of April 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to collect a triggered source monitoring sample could result in customers of the Facility being exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 30 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$376

This violation Final Assessed Penalty (adjusted for limits) \$376

Economic Benefit Worksheet

Respondent Esther E. Boroff dba Williams Trailer Court
Case ID No. 42398
Reg. Ent. Reference No. RN101212421
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
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	7-Apr-2011	8-Apr-2011	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to conduct triggered source monitoring at the Facility, calculated for the 24-hour time frame in which the sample should have been taken.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Screening Date 17-Aug-2011

Docket No. 2011-1526-PWS-E

PCW

Respondent Esther E. Boroff dba Williams Trailer Court

Policy Revision 2 (September 2002)

Case ID No. 42398

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212421

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description

Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter, by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not submit DLQORs to the Executive Director for the third quarter of 2009 through the first quarter of 2011.

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
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 7

547 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$700

Seven quarterly 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 Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$177

Violation Final Penalty Total \$1,054

This violation Final Assessed Penalty (adjusted for limits) \$1,054

Economic Benefit Worksheet

Respondent Esther E. Boroff dba Williams Trailer Court
Case ID No. 42398
Reg. Ent. Reference No. RN101212421
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]	\$158	10-Oct-2009	10-Apr-2011	2.42	\$19	\$158	\$177
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit DLQORs for the seven quarters in which they were not submitted (\$22.50 per report x 7 quarters), calculated from the date that the report for the third quarter of 2009 was due to the date that the report for the first quarter of 2011 was due.

Approx. Cost of Compliance

\$158

TOTAL

\$177

Screening Date 17-Aug-2011

Docket No. 2011-1526-PWS-E

PCW

Respondent Esther E. Boroff dba Williams Trailer Court

Policy Revision 2 (September 2002)

Case ID No. 42398

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101212421

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(2)(F)

Violation Description

Failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result. Specifically, the Respondent collected only one routine sample in May 2011 after reporting a coliform-positive sample in April 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to conduct additional sampling the month following a coliform-positive result could cause customers of the Facility to be exposed to significant amounts of undetected contaminants, which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$376

This violation Final Assessed Penalty (adjusted for limits) \$376

Economic Benefit Worksheet

Respondent Esther E. Boroff dba Williams Trailer Court
Case ID No. 42398
Reg. Ent. Reference No. RN101212421
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]	\$100	1-May-2011	31-May-2011	1.00	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to collect and analyze four additional routine samples (\$25 per sample), calculated for the month in which the increased monitoring should have occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Compliance History

Customer/Respondent/Owner-Operator: CN600655351 BOROFF, ESTHER E Classification: Rating:
Regulated Entity: RN101212421 WILLIAMS TRAILER COURT Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0680126
WATER LICENSING LICENSE 0680126
Location: 4307 ANGUS ROAD, ODESSA, ECTOR COUNTY, TEXAS
TCEQ Region: REGION 07 - MIDLAND
Date Compliance History Prepared: August 12, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 12, 2006 to August 12, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/26/2007	(541824)
2	12/19/2007	(612454)
3	06/15/2007	(644872)
4	09/01/2007	(645721)
5	06/08/2010	(825584)
6	07/15/2011	(941014)
7	07/15/2011	(941200)
8	07/22/2011	(941218)
9	07/06/2011	(942278)
10	06/16/2011	(942469)
11	06/16/2011	(942502)

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

Date: 05/27/2011 (941014) CN600655351
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)
Description: GWR Triggered Source Monitoring Violation 04/2011 - Failure to collect any triggered source monitoring sample(s) following a coliform found result for 2sources.

Date: 06/16/2011 (942469) CN600655351
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

Date: 06/16/2011 (942502) CN600655351
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010.

Date: 07/06/2011 (942278) CN600655351
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2011.

Date: 07/07/2011 (941200) CN600655351
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: Increased Routine Monitoring 5/2011 - Failure to collect a set of five routine distribution samples for coliform analysis the month following a month in which a coliform-positive sample is found.

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
ESTHER E. BOROFF DBA
WILLIAMS TRAILER COURT
RN101212421**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1526-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 Esther E. Boroff dba Williams Trailer Court (“the Respondent”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that she has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a mobile home park with a public water supply at 4307 Angus Road in Odessa, Ector County, Texas (the “Facility”) that has approximately 24 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on July 18, 2011, TCEQ staff documented that the Respondent did not collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample during the month of April 2011.

3. During a record review conducted on July 18, 2011, TCEQ staff documented that the Respondent did not submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter, by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not submit DLQORs to the Executive Director for the third quarter of 2009 through the first quarter of 2011.
4. During a record review conducted on July 18, 2011, TCEQ staff documented that the Respondent did not collect at least five routine distribution coliform samples the month following a coliform-positive sample result. Specifically, the Respondent collected only one routine sample in May 2011 after reporting a coliform-positive sample in April 2011.
5. The Respondent received notice of the violations on August 3, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to submit a DLQOR to the Executive Director each quarter, by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
4. As evidenced by Finding of Fact No. 4, the Respondent failed to collect at least five routine distribution coliform samples the month following a coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of One Thousand Eight Hundred Seven Dollars (\$1,807) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Eight Hundred Seven Dollar (\$1,807) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Eight Hundred Seven Dollars (\$1,807) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Esther E. Boroff dba Williams Trailer Court, Docket No. 2011-1526-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, begin complying with all applicable coliform monitoring requirements, including the collection of all routine distribution samples and triggered source monitoring samples when required, 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 and reporting.
 - b. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110.
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e., and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.
 - d. Within 90 days after the effective date of this Order, begin submitting DLQORs to the Executive Director each quarter, by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

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

with a copy to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- e. 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 Nos. 2.a. and 2.d. 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 Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

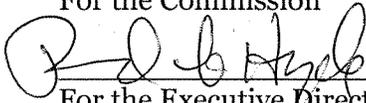
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

11/25/12

Date

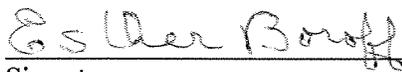
I, the undersigned, have read and understand the attached Agreed Order in the matter of Esther E. Boroff dba Williams Trailer Court. I am authorized to agree to the attached Agreed Order on behalf of Esther E. Boroff dba Williams Trailer Court, and do agree to the specified terms and conditions. I further 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, Esther E. Boroff dba Williams Trailer Court waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

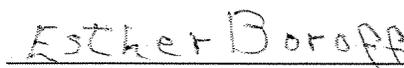
In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

12-1-11

Date



Name (Printed or typed)
Authorized Representative of
Esther E. Boroff dba Williams Trailer Court

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.