

Executive Summary – Enforcement Matter – Case No. 39930
Thomas Pankratz DBA Shady Rest Mobile Home Park
RN102686128 and RN102686128
Docket No. 2010-1105-MLM-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

Media:

MLM - PWS and WOC

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

15 Cascade Caverns Road, Boerne, Kendall County

Type of Operation:

public water supply

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$183.75
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: February 17, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$7,404

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$229

Total Due to General Revenue: \$7,175

Payment Plan: 35 payments of \$205 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A (Both CNs)

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 12, 2010; May 1, 2010
Date(s) of NOV(s): See Compliance History – 7 related NOVs
Date(s) of NOE(s): May 8, 2010; May 19, 2010

Violation Information

1. Failed to provide two or more service pumps that have a total capacity of 2.0 gpm per connection at each pump station or pressure plane [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(a)(1)].
2. Failed to provide a minimum disinfectant residual concentration of 0.2 mg/L of free chlorine throughout the distribution system [30 TEX. ADMIN. CODE § 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
3. Failed to make the Facility's records available for review at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2)].
4. Failed to have all production, treatment, and distribution facilities under the direct supervision of a water works operator who holds a Class "D" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)].
5. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to conduct routine sampling [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)].
6. Failed to comply with the MCL for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
7. Failed to have a valid, effective water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water [30 TEX. ADMIN. CODE § 30.381(b), TEX. WATER CODE § 37.003 and TEX. HEALTH & SAFETY CODE § 341.034(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent came into compliance with monitoring, public notice and MCL requirements on or about March 1, 2010.

Technical Requirements:

1. Provide a minimum disinfectant residual concentration of 0.2 mg/L of free chlorine throughout the distribution system at all times.
2. Begin maintaining Facility records and make them available for review.
3. Either obtain a valid, effective water system operator license or cease performing process control duties at the Facility.
4. Ensure that all of the Facility is under the direct supervision of a water works operator who holds a Class "D" or higher license.

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RN102686128 and RN102686128
Docket No. 2010-1105-MLM-E

5. Provide two or more service pumps that have a total capacity of 2.0 gpm per connection at each pump station or pressure plane.
6. Submit written certification to demonstrate compliance:
 - a. Within 75 days for Technical Requirements Nos. 1 through 4; and
 - b. Within 105 days for Technical Requirement No. 5.

Litigation Information

Date Petition(s) Filed: September 14, 2010 (EDPRP); September 9, 2011 (EDFARP);
January 10, 2012 (EDSARP)

Date Answer(s) Filed: November 1, 2010

SOAH Referral Date: December 21, 2010

Hearing Date(s):
Preliminary hearing: February 17, 2011
Evidentiary hearing: June 16, 2011 (continued to January 23, 2012)

Settlement Date: January 23, 2012

Contact Information

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

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Rebecca Clausewitz, Enforcement Division, (210) 403-4012

TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 403-4050

Respondent: Thomas Pankratz, Shady Rest Mobile Home Park, 113 Clear Sky, Boerne, Texas 78015

Respondent's Attorney: Fred Hoelke, 26545 IH-10 West, Suite 100, Boerne, Texas 78006

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	24-May-2010	Screening	21-Jun-2010	EPA Due	30-Nov-2009
	PCW	24-Jun-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Thomas Pankratz dba Shady Rest Mobile Home Park		
Reg. Ent. Ref. No.	RN102686128		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39930	No. of Violations	6
Docket No.	2010-1105-MLM-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	\$3,450
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	35.0% Enhancement	Subtotals 2, 3, & 7	\$1,207
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Notes: Enhancement for seven prior Notices of Violation ("NOVs") that contain violations that are same/similar to the violations in the current enforcement action.

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	\$312
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$670
 Approx. Cost of Compliance: \$1,486
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,345
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OTHER FACTORS AS JUSTICE MAY REQUIRE	9.8%	Adjustment	\$426
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: The enhancement is recommended to capture the avoided costs of compliance for Violation Nos. 2, 4, 5 and 6.

Final Penalty Amount	\$4,771
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,771
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DEFERRAL		Reduction	Adjustment	
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered with findings orders.

PAYABLE PENALTY	\$4,771
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Screening Date 21-Jun-2010

Docket No. 2010-1105-MLM-E

PCW

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 39930

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102686128

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 NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	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) 35%

>> **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 seven prior Notices of Violation ("NOVs") that contain violations that are same/similar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 35%

Screening Date 21-Jun-2010

Docket No. 2010-1105-MLM-E

PCW

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 39930

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102686128

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(iii) and Tex. Health & Safety Code § 341.0315(a)(1)

Violation Description
Failed to provide two or more service pumps that have a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane. Specifically, with 43 connections the Facility should provide a minimum of 86 gpm from two service pumps. The Facility currently has two service pumps that provide a total of 30 gpm of service pump capacity, which is a 65% deficiency.

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
Without sufficient service pump capacity, residents of the mobile home park could face significant water shortages or outages and significant amounts of contaminants could enter the system, which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4 101 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

Four monthly events are recommended, calculated from the date of the investigation, March 12, 2010, to the date of case screening, June 21, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$240

Violation Final Penalty Total \$1,482

This violation Final Assessed Penalty (adjusted for limits) \$1,482

Economic Benefit Worksheet

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park
Case ID No. 39930
Req. Ent. Reference No. RN102686128
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)	\$1,000	24-Oct-2007	31-Mar-2011	3.44	\$11	\$229	\$240
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to provide a minimum service pump capacity of 2.0 gpm per connection, calculated from the date of the initial investigation documenting the violation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$240

Screening Date	21-Jun-2010	Docket No.	2010-1105-MLM-E	PCW
Respondent	Thomas Pankratz dba Shady Rest Mobile Home Park			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39930			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102686128			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Rebecca Clausewitz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="10%"/>	
		Major	Moderate		Minor
	Release	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	x	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park
Case ID No. 39930
Req. Ent. Reference No. RN102686128
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]	\$50	12-Mar-2010	12-Mar-2010	0.00	\$0	\$50	\$50
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for maintenance and additional oversight that could have avoided the violation, calculated for the date the low disinfectant residual was documented.

Approx. Cost of Compliance

\$50

TOTAL

\$50

Screening Date 21-Jun-2010	Docket No. 2010-1105-MLM-E	PCW
Respondent Thomas Pankratz dba Shady Rest Mobile Home Park		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 39930		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN102686128		
Media [Statute] Public Water Supply		
Enf. Coordinator Rebecca Clausewitz		

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park
Case ID No. 39930
Req. Ent. Reference No. RN102686128
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	\$100	12-Mar-2010	28-Feb-2011	0.97	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to create and begin maintaining a record keeping system for the Facility's records that will allow the records to be accessible at the time of investigations, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$100

TOTAL \$5

Screening Date	21-Jun-2010	Docket No.	2010-1105-MLM-E	PCW
Respondent	Thomas Pankratz dba Shady Rest Mobile Home Park			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39930			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102686128			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Rebecca Clausewitz			

Violation Number

Rule Cite(s)

Violation Description

Failed to have all production, treatment, and distribution facilities under the direct supervision of a water works operator who holds a Class "D" or higher license. Specifically, the operator's license expired in September of 2003 and has not been renewed.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Without a licensed operator, residents of the mobile home park could experience water supply or treatment problems and could be exposed to significant amounts of contaminants which would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Four monthly events are recommended, calculated from the date of the investigation, March 12, 2010, to the date of case screening, June 21, 2010.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park
Case ID No. 39930
Req. Ent. Reference No. RN102686128
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]	\$111	12-Mar-2007	12-Mar-2010	3.92	\$22	\$111	\$133
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the actual amount to obtain a Class "D" water works operator license, calculated for the three years prior to the date of the investigation.

Approx. Cost of Compliance \$111

TOTAL \$133

Screening Date 21-Jun-2010 **Docket No.** 2010-1105-MLM-E **PCW**
Respondent Thomas Pankratz dba Shady Rest Mobile Home Park *Policy Revision 2 (September 2002)*
Case ID No. 39930 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102686128
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number

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

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

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Failure to conduct routine sampling and to provide public notice could result in residents of the mobile home park becoming exposed to significant amounts of contaminants, which would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Four monthly events are recommended for the months in which no sampling was conducted and no public notice was provided.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes The Respondent came into compliance with this violation as of March 1, 2010.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park
Case ID No. 39930
Req. Ent. Reference No. RN102686128
Media Public Water Supply
Violation No. 5

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	30-Jun-2008	31-Aug-2009	2.09	\$10	\$100	\$110
Other (as needed)	\$75	30-Sep-2008	30-Nov-2008	1.08	\$4	\$75	\$79

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct routine coliform sampling and the amount to provide public notice at the Facility, calculated during the months in which no sampling occurred and during the time frame that the public notice should have been provided.

Approx. Cost of Compliance

\$175

TOTAL

\$190

Screening Date 21-Jun-2010 **Docket No.** 2010-1105-MLM-E **PCW**
Respondent Thomas Pankratz dba Shady Rest Mobile Home Park *Policy Revision 2 (September 2002)*
Case ID No. 39930 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102686128
Media [Statute] Public Water Supply
Enf. Coordinator Rebecca Clausewitz

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Thomas Pankratz dba Shady Rest Mobile Home Park
Case ID No. 39930
Req. Ent. Reference No. RN102686128
Media Public Water Supply
Violation No. 6

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]	\$50	1-Mar-2009	31-Mar-2009	1.00	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount for additional sampling and/or oversight that could have prevented the exceedance, calculated for the month in which the exceedance occurred.

Approx. Cost of Compliance

\$50

TOTAL

\$53



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-May-2010	Screening	21-Jun-2010	EPA Due	
	PCW	30-Jun-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Thomas Pankratz		
Reg. Ent. Ref. No.	RN103508875		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39994	No. of Violations	1
Docket No.	2010-1105-MLM-E	Order Type	Findings
Media Program(s)	All Occupational Licenses	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability **No** **0.0%** Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **0.0%** Enhancement* **Subtotal 6**

Total EB Amounts	\$133	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$111	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **5.3%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction** **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 21-Jun-2010

Docket No. 2010-1105-MLM-E

PCW

Respondent Thomas Pankratz

Policy Revision 2 (September 2002)

Case ID No. 39994

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103508875

Media [Statute] All Occupational Licenses

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	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)

>> **Repeat Violator (Subtotal 3)**

Adjustment Percentage (Subtotal 3)

>> **Compliance History Person Classification (Subtotal 7)**

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

No enhancement is recommended due to compliance history.

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

Screening Date	21-Jun-2010	Docket No.	2010-1105-MLM-E	PCW
Respondent	Thomas Pankratz			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39994			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN103508875			
Media [Statute]	All Occupational Licenses			
Enf. Coordinator	Rebecca Clausewitz			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent <input type="text" value="25%"/>
Potential	<input type="text" value="x"/>				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Thomas Pankratz
Case ID No. 39994
Req. Ent. Reference No. RN103508875
Media All Occupational Licenses
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]	\$111	12-Mar-2007	12-Mar-2010	3.92	\$22	\$111	\$133
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the fee for renewing a Class "D" water operator license with the Commission, which is valid for three years, calculated for the three years prior to the date of the investigation.

Approx. Cost of Compliance

\$111

TOTAL

\$133

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603666496 Thomas Pankratz	Classification:	Rating:
Regulated Entity:	RN102686128 SHADY REST MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1300014
Location:	15 Cascade Caverns Road, Kendall County, Texas		
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	June 23, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 23, 2005 to June 23, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:			
Name:	Rebecca Clausewitz	Phone:	(210) 403-4012

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Helen Pankratz and Thomas Pankratz
4. If Yes, who was/were the prior owner(s)/operator(s)? William Pankratz
5. When did the change(s) in owner or operator occur? March 2008

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	02/13/2007	(539940)
2	11/12/2007	(600526)
3	05/13/2010	(802520)
4	05/14/2010	(802567)
5	05/14/2010	(802568)
6	05/14/2010	(802571)
7	05/14/2010	(802574)
8	05/18/2010	(801680)
9	05/18/2010	(801879)
10	05/21/2010	(802672)

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

Date:	02/15/2007 (539940)	CN603647645	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description:	Failure to have a functioning well flow measuring device.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii) 5A THSC Chapter 341, SubChapter A 341.0315(c)		
Description:	Failure to meet the service pump capacity requirement.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to provide the system with a Monitoring Plan.		

Date:	11/13/2007 (600526)	CN603647645	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)		
Description:	Failure to have a functioning well flow measuring device.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii) 5A THSC Chapter 341, SubChapter A 341.0315(c)		
Description:	Failure to meet the service pump capacity requirement.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to provide the system with a Monitoring Plan.		

Date:	07/31/2008 (802520)	CN603647645	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 5A THSC Chapter 341, SubChapter A 341.0315(c)		
Description:	TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).		

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

Date: 09/03/2008 (802567) CN603647645

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).

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

Date: 10/10/2008 (802568) CN603647645

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

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

Date: 04/14/2009 (802571) CN603647645

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(2)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TCR MCL Violation 03/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 Description: TCR PN MCL Violation 03/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

Date: 10/02/2009 (802574) CN603647645

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TCR Routine Monitoring Violation 08/2009 - Failure to collect any routine monitoring sample(s).

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

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History Report

Customer/Respondent/Owner-Operator: CN603666496 PANKRATZ, THOMAS Classification: Rating:
 Regulated Entity: RN103508875 PANKRATZ, THOMAS W Classification: Site Rating:
 ID Number(s):
 Location: 113 Clear Sky, Kendall County, Texas
 TCEQ Region: REGION 13 - SAN ANTONIO
 Date Compliance History Prepared: July 8, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: July 8, 2005 to July 8, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
05/18/2010 (801680)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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
THOMAS PANKRATZ DBA SHADY
REST MOBILE HOME PARK;
RN102686128 AND RN103508875**

**§
§
§
§
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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1105-MLM-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Thomas Pankratz DBA Shady Rest Mobile Home Park ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 37 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by attorney Frederick Hoelke, presented this Agreed Order to the Commission.

Respondent understands that he 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, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 Respondent.

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

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 15 Cascade Caverns Road in Boerne, Kendall County, Texas (the "Facility"). The Facility provides water for human consumption, has 43 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. Respondent performs process control duties in the production or distribution of drinking water for a public water system, and is required to be licensed under TEX. HEALTH & SAFETY CODE § 341.034. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 37 and 30 TEX. ADMIN. CODE ch. 30.

3. During an investigation conducted on March 12, 2010, a TCEQ San Antonio Regional Office investigator documented that Respondent:
 - a. Failed to provide two or more service pumps that have a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane. Specifically, with 43 connections, the Facility should provide a minimum of 86 gpm from two service pumps. The Facility currently has two service pumps that provide a total of 30 gpm of service pump capacity, which is a 65% deficiency;
 - b. Failed to provide a minimum disinfectant residual concentration of 0.2 milligrams per liter ("mg/L") of free chlorine throughout the distribution system. Specifically, on the date of the investigation, the disinfectant residual concentration was measured to be 0.06 mg/L free chlorine at 103 Shade Tree;
 - c. Failed to make the Facility's records available for review at the time of the investigation; and
 - d. Failed to have all production, treatment, and distribution facilities under the direct supervision of a water works operator who holds a Class "D" or higher license. Specifically, the operator's license expired in September 2003 and has not been renewed.
4. During an investigation conducted on May 1, 2010, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of June, July and August 2008 and August 2009 and failed to provide public notification of the failure to conduct routine sampling; and
 - b. Failed to comply with the maximum contaminant level ("MCL") for total coliform.
5. During an investigation conducted on March 12, 2010, a TCEQ San Antonio Regional Office investigator documented that Respondent failed to have a valid, effective water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water. Specifically, at the time of the investigation, Respondent was operating the Facility and collecting water samples for coliform testing at Shady Rest Mobile Home Park, however, his Class "D" water operator license expired in September 2003.
6. Respondent received notice of the violations in Finding of Fact No. 3 on or about May 24, 2010. Respondent received notice of the violations in Finding of Fact No. 4 during the months following the violations. Respondent received notice of the violations in Finding of Fact No. 5 on or about May 15, 2010.
7. The Executive Director recognizes that Respondent came into compliance with monitoring, public notice, and MCL requirements listed in Finding of Fact No. 4 and Conclusions of Law Nos. 6 and 7 on or about March 1, 2010.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondent failed to provide two or more service pumps that have a total capacity of 2.0 gpm per connection at each pump station or pressure plane, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(a)(1).
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to provide a minimum disinfectant residual concentration of 0.2 mg/L of free chlorine throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.110(b)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. As evidenced by Finding of Fact No. 3.c., Respondent failed to make the Facility's records available for review at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2).
5. As evidenced by Finding of Fact No. 3.d., Respondent failed to have all production, treatment, and distribution facilities under the direct supervision of a water works operator who holds a Class "D" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a).
6. As evidenced by Finding of Fact No. 4.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to conduct routine sampling, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d).
7. As evidenced by Finding of Fact No. 4.b., Respondent 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).
8. As evidenced by Finding of Fact No. 5, Respondent failed to have a valid, effective water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water, in violation of 30 TEX. ADMIN. CODE § 30.381(b), TEX. WATER CODE § 37.003 and TEX. HEALTH & SAFETY CODE § 341.034(b).
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of seven thousand four hundred four dollars (\$7,404.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053 and TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid two hundred twenty-one dollars (\$229.00) of the administrative penalty. The remaining amount of seven thousand one hundred seventy-five dollars (\$7,175.00) of the administrative penalty shall be payable in

thirty-five (35) monthly payments of two hundred fifteen dollars (\$205.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 10, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Thomas Pankratz DBA Shady Rest Mobile Home Park, Docket No. 2010-1105-MLM-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Respondent shall:
 - i. Provide a minimum disinfectant residual concentration of 0.2 mg/L of free chlorine throughout the distribution system at all times, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 3); and
 - ii. Begin maintaining Facility records to ensure that they are available for review by Commission personnel at the time of an investigation, in accordance with 30 TEX. ADMIN. CODE § 290.46. (Conclusion of Law No. 4).
 - b. Within 60 days after the effective date of this Agreed Order, Respondent shall:
 - i. Either obtain a valid, effective water system operator license issued by the TCEQ or cease performing process control duties for the production and distribution of drinking water at the Facility; or

- ii. Ensure that all of the Facility's production, treatment, and distribution facilities are under the direct supervision of a water works operator who holds a Class "D" or higher license, as required by 30 TEX. ADMIN. CODE §§ 30.381 and 290.46, TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034. (Conclusions of Law Nos. 5 and 8).
- c. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.
- d. Within 90 days after the effective date of this Agreed Order, Respondent shall provide two or more service pumps that have a total capacity of 2.0 gpm per connection at each pump station or pressure plane, in accordance with TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 2).
- e. Within 105 days after the effective date of this Agreed Order, Respondent shall submit written certification as described in Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.d.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Lynn Bumguardner, Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Respondent has 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 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. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

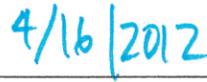
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Thomas Pankratz DBA Shady Rest Mobile Home Park, 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.

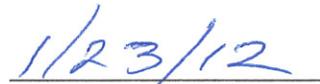
I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Thomas Pankratz



Date