

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41873
Leslie L. Morris d/b/a Space Estates Mobile Home Park
RN103998811
Docket No. 2011-0982-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (11 NOVs, 1 order) over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

13826 East Hardy Road, Houston, Harris County

Type of Operation:

Public water system

Other Significant Matters:

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

Texas Register Publication Date: June 8, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,151

Total Paid to General Revenue: \$151

Total Due to General Revenue: \$1,000

Payment Plan: 10 payments of \$100 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 6, 2011
Date(s) of NOV(s): See Compliance History – 11 related NOVs
Date(s) of NOE(s): June 10, 2011

Violation Information

1. 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 each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4) and 290.110(f)(3)].
2. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days:
 - a. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly performed, including the timely submittal of signed and certified DLQORs; and
 - b. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers of the Facility.
2. Within 45 days, submit to the Executive Director a copy of the 2010 CCR provided to the customers of the Facility and the certification that the CCR has been distributed to the customers and that the information in the CCR is correct and consistent with the compliance monitoring data.
3. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter. This provision shall be satisfied upon two consecutive quarters of compliant reporting.
4. Submit written certification to demonstrate compliance:
 - a. Within 45 days for Technical Requirement No. 1;
 - b. Within 60 days for Technical Requirement No. 2; and
 - c. Within 195 days for Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: December 13, 2011
Date Answer(s) Filed: December 27, 2011
SOAH Referral Date: January 31, 2012
Hearing Date(s):
Preliminary hearing: March 22, 2012
Evidentiary hearing: N/A
Settlement Date: May 1, 2012

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41873
Leslie L. Morris d/b/a Space Estates Mobile Home Park
RN103998811
Docket No. 2011-0982-PWS-E**

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Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Andrea Linson, Enforcement Division, (512) 239-1482

TCEQ Regional Contact: Steve Smith, Houston Regional Office, (713) 767-3581

Respondent: Leslie Morris, 13826 East Hardy Road, Trailer 20, Houston, Texas 77039

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Jun-2011	Screening	17-Jun-2011	EPA Due	30-Jun-2006
	PCW	17-Jun-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	Leslie L. Morris dba Space Estates Mobile Home Park		
Reg. Ent. Ref. No.	RN103998811		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41873	No. of Violations	2
Docket No.	2011-0982-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson
		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	\$290
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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	79.0% Enhancement	Subtotals 2, 3, & 7	\$229
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Notes: Enhancement due to 11 NOVs with the same/similar violations, two NOVs with dissimilar violations, and one agreed order containing a denial of liability.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$137
 Approx. Cost of Compliance: \$309
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$519
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OTHER FACTORS AS JUSTICE MAY REQUIRE	12.5%	Adjustment	\$65
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for the recovery of avoided costs associated with Violation No. 2.

Final Penalty Amount	\$584
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,151
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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	\$1,151
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Screening Date 17-Jun-2011

Docket No. 2011-0982-PWS-E

PCW

Respondent Leslie L. Morris dba Space Estates Mobile Home P

Policy Revision 2 (September 2002)

Case ID No. 41873

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103998811

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

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>)	11	55%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 79%

>> 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 due to 11 NOVs with the same/similar violations, two NOVs with dissimilar violations, and one agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 79%

Screening Date 17-Jun-2011

Docket No. 2011-0982-PWS-E

PCW

Respondent Leslie L. Morris dba Space Estates Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 41873

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103998811

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4) and 290.110(f)(3)

Violation Description Failed to timely 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 each quarter. Specifically, at the time of the record review, it was documented that the Facility did not prepare and submit any DLQORs from the first quarter of 2006 to the third quarter of 2008, and from the first quarter 2009 to the fourth quarter of 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
Less than 30% of the rule requirement was not met.				x	1%

Adjustment \$990

\$10

Violation Events

Number of Violation Events 19 1826 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$190

Nineteen quarterly events are recommended, based on the quarters DLQORs were not prepared and submitted.

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 \$190

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$73

Violation Final Penalty Total \$383

This violation Final Assessed Penalty (adjusted for limits) \$950

Economic Benefit Worksheet

Respondent Leslie L. Morris dba Space Estates Mobile Home Park
Case ID No. 41873
Req. Ent. Reference No. RN103998811
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)	\$250	10-Apr-2006	31-Jan-2012	5.81	\$73	n/a	\$73

Notes for DELAYED costs

The estimated delayed cost to update the Facility's operational guidance and conduct employee training to ensure that DLQORs are submitted timely, calculated from the date the first report was due 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

\$250

TOTAL

\$73

Screening Date 17-Jun-2011

Docket No. 2011-0982-PWS-E

PCW

Respondent Leslie L. Morris dba Space Estates Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 41873

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103998811

Media [Statute] Public Water Supply

Enf. Coordinator Andrea Linson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the bill paying customers nor did the Respondent submit the CCRs or the required certification to the TCEQ for the year 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes The Respondent failed to meet 100% of the rule requirement.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 11 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$100

One annual 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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$65

Violation Final Penalty Total \$201

This violation Final Assessed Penalty (adjusted for limits) \$201

Economic Benefit Worksheet

Respondent Leslie L. Morris dba Space Estates Mobile Home Park
Case ID No. 41873
Req. Ent. Reference No. RN103998811
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
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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]	\$59	1-Jul-2010	17-Jun-2011	1.88	\$6	\$59	\$65
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the CCRs to the customers of the Facility (calculation: \$0.53 x 17 connections + \$50 x 1 year), calculated from the due date to the screening date.

Approx. Cost of Compliance \$59

TOTAL \$65

Compliance History

Customer/Respondent/Owner-Operator:	CN601989148 MORRIS, LESLIE L	Classification:	Rating:
Regulated Entity:	RN103998811 SPACE ESTATES MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010667
Location:	13826 E HARDY RD, HOUSTON, HARRIS COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 17, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 17, 2006 to June 17, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:			
Name:	Andrea Linson	Phone:	512-239-1482

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.

Effective Date: 05/22/2011

ADMINORDER 2010-1762-UTL-E

Classification: Moderate

Citation: 2B TWC Chapter 13, SubChapter A 13.1395(b)(2)
 30 TAC Chapter 290, SubChapter D 290.39(o)(1)
 30 TAC Chapter 291, SubChapter L 291.162(a)
 30 TAC Chapter 291, SubChapter L 291.162(j)

Description: Failed to adopt and submit to the Executive Director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.

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	08/03/2006	(482765)		6	10/01/2009	(932904)		11	07/19/2007	(932948)
2	08/31/2010	(857736)		7	07/21/2009	(932922)		12	07/19/2007	(932953)
3	10/14/2010	(870306)		8	03/27/2009	(932931)		13	07/19/2007	(932955)
4	06/08/2011	(932631)		9	07/19/2007	(932941)		14	12/22/2010	(932957)
5	06/08/2011	(932860)		10	07/19/2007	(932944)		15	06/10/2011	(933059)

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

Date: 08/03/2006 (482765) CN601989148

Self Report? NO Classification: Minor

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

Description: Failure to provide wiring in conduit.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to properly fence well unit.

Self Report? NO Classification: Minor

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

Description: Failure to provide a minimum pressure of 35 psi in distribution.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)

Description: Failure to provide a well meter.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to provide a monitoring plan.

Date: 07/19/2007 (932953) CN601989148

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 second quarter of 2006.

Date: 07/19/2007 (932944) CN601989148

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 2006.

Date: 07/19/2007 (932941) CN601989148
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 2007.

Date: 07/19/2007 (932948) CN601989148
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 2006.

Date: 07/19/2007 (932955) CN601989148
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 2006.

Date: 03/27/2009 (932931) CN601989148
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 2008.

Date: 07/21/2009 (932922) CN601989148
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 2009.

Date: 10/01/2009 (932904) CN601989148
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 second quarter of 2009.

Date: 09/01/2010 (857736) CN601989148
Self Report? NO Classification: Moderate
Citation: 2B TWC Chapter 13, SubChapter A 13.1395(b)(2)
30 TAC Chapter 290, SubChapter D 290.39(o)(1)
30 TAC Chapter 291, SubChapter L 291.162(a)
30 TAC Chapter 291, SubChapter L 291.162(j)
Description: Failed to adopt and submit to the Executive Director for approval by March 1, 2010, an emergency preparedness plan that demonstrates the Facility's ability to provide emergency operations.

Date: 12/22/2010 (932957) CN601989148
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2009 to its bill-paying customers.

Date: 06/08/2011 (932631) CN601989148
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: 06/08/2011 (932860) CN601989148
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.

- 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
LESLIE L. MORRIS DBA SPACE
ESTATES MOBILE HOME PARK;
RN103998811**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0982-PWS-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 Leslie L. Morris d/b/a Space Estates Mobile Home Park ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

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, 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 13826 East Hardy Road in Houston, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 17 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on June 6, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. 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 each quarter. Specifically, Respondent did not prepare and submit any DLQORs from the first quarter of 2006 to the third quarter of 2008, and from the first quarter 2009 to the fourth quarter of 2010; and

- b. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, Respondent did not mail or directly deliver the CCRs to the bill paying customers nor did Respondent submit the CCRs or the required certification to the TCEQ for the year 2009.
3. Respondent received notice of the violations on or about June 15, 2011.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, 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 Finding of Fact No. 2.a., Respondent failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4) and 290.110(f)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of one thousand one hundred fifty-one dollars (\$1,151.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred fifty-one dollars (\$151.00) of the administrative penalty. The remaining amount of one thousand dollars (\$1,000.00) of the administrative penalty shall be payable in ten (10) monthly payments of one hundred dollars (\$100.00) 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. 5, 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: Leslie L. Morris d/b/a Space Estates Mobile Home Park, Docket No. 2011-0982-PWS-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly performed, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110; and
 - ii. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers of the Facility, as required by 30 TEX. ADMIN. CODE § 290.274.
 - b. Within 45 days after the effective of this Agreed Order, Respondent shall:
 - i. Submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.a.; and
 - ii. Submit to the Executive Director a copy of the CCR provided to customers of the Facility for the year 2010 and the certification that the CCR has been distributed to the customers of the Facilities and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

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

- c. Within 60 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.f., below, to demonstrate compliance with Ordering Provision No. 2.b.ii.;
- d. Within 90 days after the effective date of this Agreed Order, Respondent shall begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision shall be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to the following address:

Public Drinking Water Section, MC 155
Attn: DLQOR Coordinator
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, Respondent shall submit written certification and detailed supporting documentation, in accordance with 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 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:

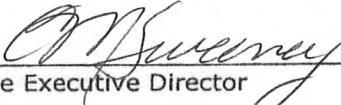
Elston Johnson, Public Drinking Water Program, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Agreed Order is denied.
4. The provisions of 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.
6. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. 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.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. 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.

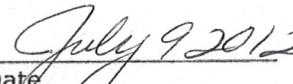
SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



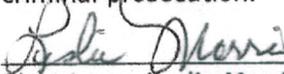
Date

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 Leslie L. Morris d/b/a Space Estates 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.

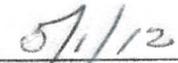
I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

- 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 - Leslie Morris



Date