

Executive Summary – Enforcement Matter – Case No. 46960
Howard T. Nelius dba Coushatte Campground
RN101233054
Docket No. 2013-1047-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Coushatte Campground, 2812 Nelius Road, Austin County

Type of Operation:

Mobile home park with a public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 20, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,394

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,394

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

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Howard T. Nelius dba Coushatta Campground
RN101233054
Docket No. 2013-1047-PWS-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 8, 2013
Date(s) of NOE(s): May 15, 2013

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis, and failed to timely provide public notification for failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for a routine distribution sample collected [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)].
3. Failed to collect one raw groundwater source *Escherichia coli* (“*E. coli*”) sample from all active sources within 24 hours of being notified of a distribution total coliform-positive result [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent provided public notification of the failure to conduct routine distribution monitoring during the month of November 2012 on June 17, 2013.

Technical Requirements:

Respondent shall undertake the following technical requirements:

- a. Within 10 days:
 - i. Begin complying with applicable coliform monitoring requirements by collecting routine distribution coliform samples, repeat samples, one raw groundwater source *E. coli* sample from each groundwater source in use at the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliant monitoring and reporting; and
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility.
- b. Within 25 days, submit written certification demonstrating compliance with Ordering Provision a.ii.; and

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c. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.i.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4016; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Howard Nelius, Owner, Coushatte Campground, 2812 Nelius Road,
Bellville, Texas 77418
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned PCW	20-May-2013 14-Jun-2013	Screening	24-May-2013	EPA Due	30-Jun-2013
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RESPONDENT/FACILITY INFORMATION

Respondent	Howard T. Nelius dba Coushatte Campground	
Reg. Ent. Ref. No.	RN101233054	
Facility/Site Region	12-Houston	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	46960	No. of Violations	3
Docket No.	2013-1047-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Montgomery
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for six NOVs with same/similar violations and one order without a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover the avoided costs of compliance associated with Violation Nos. 1, 2, and 3.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Screening Date 24-May-2013

Docket No. 2013-1047-PWS-E

PCW

Respondent Howard T. Nelius dba Coushatta Campground

Policy Revision 3 (September 2011)

Case ID No. 46960

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101233054

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

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>)	6	30%
	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	1	25%
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) 55%

>> 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 six NOVs with same/similar violations and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 55%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 55%

Screening Date 24-May-2013

Docket No. 2013-1047-PWS-E

PCW

Respondent Howard T. Nellus dba Coushatte Campground

Policy Revision 3 (September 2011)

Case ID No. 46960

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101233054

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

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 April 2012, November 2012, and February 2013, and failed to timely provide public notification for the failure to sample for the month of November 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Failure to collect routine samples and post public notification could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 3 Number of violation days 88

Table for frequency selection: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$450

Three monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$86

Violation Final Penalty Total \$837

This violation Final Assessed Penalty (adjusted for limits) \$837

Economic Benefit Worksheet

Respondent Howard T. Nelius dba Coushatta Campground
Case ID No. 46960
Reg. Ent. Reference No. RN101233054
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
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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	\$100	8-Apr-2013	31-Dec-2013	0.73	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	28-Feb-2013	17-Jun-2013	0.30	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to implement procedures to ensure that all public notifications are provided in a timely manner to the customers of the Facility, calculated from the date of the record review to the estimated date of compliance. The other delayed cost includes the estimated amount to provide public notification of the failure to sample in November 2012, calculated from the date the notice should have been posted to the 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]	\$75	1-Apr-2012	28-Feb-2013	1.83	\$7	\$75	\$82
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of three routine water samples (\$25 per sample), calculated for the months in which no samples were collected.

Approx. Cost of Compliance \$200

TOTAL \$86

Screening Date 24-May-2013

Docket No. 2013-1047-PWS-E

PCW

Respondent Howard T. Nelius dba Coushatta Campground

Policy Revision 3 (September 2011)

Case ID No. 46960

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101233054

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

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

Violation Description Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine distribution sample collected during the month of August 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Failure to collect repeat samples may expose customers of the Facility to contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 Number of violation days 31

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$279

This violation Final Assessed Penalty (adjusted for limits) \$279

Economic Benefit Worksheet

Respondent Howard T. Nelius dba Coughatte Campground
Case ID No. 46960
Reg. Ent. Reference No. RN101233054
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]	\$100	15-Aug-2012	16-Aug-2012	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect all required repeat samples (\$25 per sample x 4 samples), calculated for the 24 hour period after the notice of the coliform-positive sample.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 24-May-2013

Docket No. 2013-1047-PWS-E

PCW

Respondent Howard T. Nelius dba Coughatte Campground

Policy Revision 3 (September 2011)

Case ID No. 46960

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101233054

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

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

Violation Description Failed to collect one raw groundwater source Escherichia coli sample from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the month of August 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

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

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 Number of violation days

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

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Reduction	
	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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$279

This violation Final Assessed Penalty (adjusted for limits) \$279

Economic Benefit Worksheet

Respondent Howard T. Nelius dba Coushatte Campground
Case ID No. 46960
Reg. Ent. Reference No. RN101233054
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	15-Aug-2012	16-Aug-2012	0.00	\$0	\$50	\$50
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect raw groundwater source samples from each active groundwater well (\$25 per sample), calculated for the 24 hour period after the Respondent was notified of the coliform-positive result.

Approx. Cost of Compliance \$50

TOTAL \$50

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600672307, RN101233054, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600672307, Howard T. Nelius

Classification: NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101233054, COUSHATTE CAMPGROUND

Classification: NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 2812 NELIUS ROAD, AUSTIN COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0080019

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: May 24, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 24, 2008 to May 24, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katy Montgomery

Phone: (512) 239-2602

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 12/19/2011 ADMINORDER 2011-0937-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: TCR Repeat Monitoring Violation 01/2008 - Failure to collect any repeats following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Repeat Monitoring Violation 01/2008 - Failure to post a public notice for not collecting any repeats following a coliform found result.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 02/2008 - Failure to collect all 5 distribution samples following a coliform found month.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Increase Monitoring Violation 02/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).

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).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

5A THSC Chapter 341, SubChapter A 341.031(a)

Description: TCR MCL Violation 07/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: TCR PN MCL Violation 07/2010 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 08/2010 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Increase Monitoring Violation 08/2010 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(4)(B)

Description: GWR Triggered Source Monitoring Violation 12/2010 - Failure to collect any triggered source monitoring samples following a coliform found result.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: GWR PN Triggered Source Monitoring Violation 12/2010 - Failure to post public notice for not collecting any triggered source monitoring sample(s) following a coliform found result.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 01/2011 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).

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.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2009 CCR year to the TCEQ.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
HOWARD T. NELIUS DBA	§	
COUSHATTE CAMPGROUND	§	ENVIRONMENTAL QUALITY
RN101233054		

AGREED ORDER
DOCKET NO. 2013-1047-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Howard T. Nelius dba Coushatte Campground (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a mobile home park with a public water supply at 2812 Nelius Road in Austin County, Texas (the "Facility") that has approximately 102 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on April 8, 2013, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of April 2012, November 2012, and February 2013, and did not timely provide public notification for the failure to sample for the month of November 2012.
3. During a record review conducted on April 8, 2013, TCEQ staff documented that the Respondent did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result on a routine distribution sample collected during the month of August 2012.
4. During a record review conducted on April 8, 2013, TCEQ staff documented that the Respondent did not collect one raw groundwater source *Escherichia coli* sample from all active sources within 24 hours of being notified of a distribution total coliform-positive result during the month of August 2012.
5. The Respondent received notice of the violations on May 22, 2013.
6. The Executive Director recognizes that the Respondent provided public notification of the failure to conduct routine distribution monitoring during the month of November 2012 on June 17, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, and failed to timely provide public notification for failure to sample, 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).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive sample result for a routine distribution sample collected, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to collect one raw groundwater source *Escherichia coli* sample from all active sources within 24 hours of

being notified of a distribution total coliform-positive result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).

5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of One Thousand Three Hundred Ninety-Four Dollars (\$1,394) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Three Hundred Ninety-Four Dollar (\$1,394) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Three Hundred Ninety-Four Dollars (\$1,394) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Howard T. Nelius dba Coushatte Campground, Docket No. 2013-1047-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order:
 - i. Begin complying with applicable coliform monitoring requirements by collecting routine distribution coliform samples, repeat samples, one raw groundwater source *Escherichia coli* sample from each groundwater source in use at the distribution coliform-positive sample was collected,

and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliant monitoring and reporting; and

- ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.
- b. Within 25 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.c. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.ii.; and
- c. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Tracy Miller

For the Executive Director

10.4.13

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Howard T. Nelius dba Coushatte Campground. I am authorized to agree to the attached Agreed Order on behalf of Howard T. Nelius dba Coushatte Campground, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Howard T. Nelius dba Coushatte Campground waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Howard Nelius

Signature

7/30/2013

Date

Howard Nelius

Name (Printed or typed)
Authorized Representative of
Howard T. Nelius dba Coushatte Campground

owner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.