

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47871  
Wayne Lee and Paula Lee d/b/a The Pines Mobile Home Park  
RN103098919  
Docket No. 2013-1991-WQ-E

**Order Type:**

Default Order

**Media:**

Water Quality

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

1320 West Walton Road, Lumberton, Hardin County

**Type of Operation:**

mobile home park with a collection system and associated lift station

**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:** July 18, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$24,937

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$24,937

**Compliance History Classifications:**

Person/CN – Satisfactory (Both Respondents)  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47871  
Wayne Lee and Paula Lee d/b/a The Pines Mobile Home Park  
RN103098919  
Docket No. 2013-1991-WQ-E

**Investigation Information**

**Complaint Date(s):** April 15, 2013  
Complaint Information: Alleged that the Facility's lift station was discharging onto the ground.

**Date(s) of Investigation:** May 2 - 6, 2013

**Date(s) of NOV(s):** April 18, 2013

**Date(s) of NOE(s):** June 25, 2013

**Violation Information**

1. Failed to notify the Commission of a discharge within 24 hours after the discharge occurred [TEX. WATER CODE § 26.039(b)].
2. Failed to prevent an unauthorized discharge of sewage from the Facility's collection system into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1) and (c)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
None

**Technical Requirements:**

1. Immediately cease all unauthorized discharges from the Facility.
2. Within 15 days:
  - a. Begin properly maintaining and operating the lift station at the Facility; and
  - b. Remediate all areas affected by the discharge.
3. Within 30 days:
  - a. Update the Facility's operational guidance and conduct employee training to ensure that reporting requirements are properly accomplished; and
  - b. Submit the noncompliance notification for the May 2, 2013, unauthorized discharge to the TCEQ Beaumont Regional Office.
4. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** March 14, 2014

**Date Green Card(s) Signed:** March 18, 2014

**Date Answer(s) Filed:** N/A

**TCEQ Attorneys:** Jake Marx, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Remington Burklund, Enforcement Division, (512) 239-2611

**TCEQ Regional Contact:** Ronald Hebert, Beaumont Regional Office, (409) 899-8721

**Respondent Contact:** Wayne Lee and Paula Lee, P.O. Box 8525, Lumberton, TX 77657

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	21-Oct-2013		
	<b>PCW</b>	13-Mar-2014	<b>Screening</b>	22-Oct-2013
			<b>EPA Due</b>	

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Wayne Lee and Paula Lee dba The Pines Mobile Home Park		
<b>Reg. Ent. Ref. No.</b>	RN103098919		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	47871	<b>No. of Violations</b>	2
<b>Docket No.</b>	2013-1991-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$23,750
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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.

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,187
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondents do not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$64	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,275	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$24,937
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$24,937
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$24,937
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral offered for non expedited settlement.
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<b>PAYABLE PENALTY</b>	\$24,937
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**Screening Date** 22-Oct-2013

**Docket No.** 2013-1991-WQ-E

**PCW**

**Respondent** Wayne Lee and Paula Lee dba The Pines Mobile H

*Policy Revision 3 (September 2011)*

**Case ID No.** 47871

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN103098919

**Media [Statute]** Water Quality

**Enf. Coordinator** Jorge Ibarra, P.E.

### 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> )	1	5%
	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%
<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)** 5%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Satisfactory

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 5%

Screening Date 22-Oct-2013

Docket No. 2013-1991-WQ-E

PCW

Respondent Wayne Lee and Paula Lee dba The Pines Mobile Home Park

Policy Revision 3 (September 2011)

Case ID No. 47871

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103098919

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.039(b)

Violation Description Failed to notify the Commission of a discharge as soon as possible and no later than 24 hours after the occurrence, as documented during an investigation conducted on May 2 through May 6, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

# Economic Benefit Worksheet

**Respondent** Wayne Lee and Paula Lee dba The Pines Mobile Home Park  
**Case ID No.** 47871  
**Reg. Ent. Reference No.** RN103098919  
**Media** Water Quality  
**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	\$250	2-May-2013	15-May-2014	1.04	\$13	n/a	\$13
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	3-May-2013	15-May-2014	1.03	\$1	n/a	\$1

**Notes for DELAYED costs**  
 Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished (\$250) and to submit the noncompliance notification to the TCEQ (\$25 per report). Dates required are the original investigation date and the date the report was due and the final dates are the anticipated 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 \$275

**TOTAL** \$14

Screening Date 22-Oct-2013

Docket No. 2013-1991-WQ-E

PCW

Respondent Wayne Lee and Paula Lee dba The Pines Mobile Home Park

Policy Revision 3 (September 2011)

Case ID No. 47871

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN103098919

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1) and (c)

Violation Description

Failed to prevent an unauthorized discharge of sewage from the collection system into or adjacent to water in the state. Specifically, during an investigation conducted on May 2 through May 6, 2013, it was documented that the lift station was discharging sewage. A sample of the unauthorized discharge collected on May 6, 2013, indicated an Escherichia coli level of greater than 2,420 most probable number/100 milliliters.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 6

173 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$22,500

Six monthly events are recommended from the initial investigation date, May 2, 2013, to the screening date of October 22, 2013.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$22,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$50

Violation Final Penalty Total \$23,625

This violation Final Assessed Penalty (adjusted for limits) \$23,625

## Economic Benefit Worksheet

**Respondent** Wayne Lee and Paula Lee dba The Pines Mobile Home Park  
**Case ID No.** 47871  
**Reg. Ent. Reference No.** RN103098919  
**Media** Water Quality  
**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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### 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	\$500	2-May-2013	1-May-2014	1.00	\$25	n/a	\$25
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	2-May-2013	1-May-2014	1.00	\$25	n/a	\$25

Notes for DELAYED costs

Estimated cost to cease all unauthorized discharges from the Facility, to properly maintain and operate the lift station at the Facility, and to remediate all affected areas. Dates required are the original investigation date and the final dates are the anticipated compliance date.

### 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**

\$50



# Compliance History Report

Compliance History Report for CN604375980, RN103098919, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604375980, LEE, WAYNE	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 8.00
<b>Regulated Entity:</b>	RN103098919, THE PINES MOBILE HOME PARK	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 8.00
<b>Complexity Points:</b>	1	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	1320 W WALTON RD LUMBERTON, TX, HARDIN COUNTY		
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT		
<b>ID Number(s):</b>			

<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013	<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	October 22, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	October 22, 2008 to October 22, 2013				

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

**Name:** Jorge Ibarra, P.E.

**Phone:** (817) 588-5890

## 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:

N/A

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

### D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 04/18/2013 (1085530)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)

Description: Failure by Wayne and Paula Lee to notify the commission of a discharge 24 hours after becoming aware of the discharge. The individual's notice to the commission must include the location, volume, date and time of the discharge or spill.

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure by Wayne and Paula Lee to prevent the discharge of sewage into or adjacent to any water in the state.

**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

Compliance History Report for CN604380527, RN103098919, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604380524, LEE, PAULA	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 8.00
<b>Regulated Entity:</b>	RN103098919, THE PINES MOBILE HOME PARK	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 8.00
<b>Complexity Points:</b>	1	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	14 - Other		
<b>Location:</b>	1320 W WALTON RD LUMBERTON, TX, HARDIN COUNTY		
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT		
<b>ID Number(s):</b>			

<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013	<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	October 22, 2013				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	October 22, 2008 to October 22, 2013				

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

**Name:** Jorge Ibarra, P.E.

**Phone:** (817) 588-5890

## 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:

N/A

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

### D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 04/18/2013 (1085530)

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)

Description: Failure by Wayne and Paula Lee to notify the commission of a discharge 24 hours after becoming aware of the discharge. The individual's notice to the commission must include the location, volume, date and time of the discharge or spill.

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure by Wayne and Paula Lee to prevent the discharge of sewage into or adjacent to any water in the state.

**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  
WAYNE LEE AND PAULA LEE  
DBA THE PINES  
MOBILE HOME PARK;  
RN103098919**

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§  
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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2013-1991-WQ-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are Wayne Lee and Paula Lee d/b/a The Pines Mobile Home Park ("Respondents").

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

### **FINDINGS OF FACT**

1. Respondents own and operate a mobile home park with a collection system and associated lift station located at 1320 West Walton Road in Lumberton, Hardin County, Texas (the "Facility"). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted from May 2, 2013, through May 6, 2013, a TCEQ Beaumont Regional Office investigator documented that Respondents:
  - a. Failed to notify the Commission of a discharge within 24 hours after the discharge occurred; and
  - b. Failed to prevent an unauthorized discharge of sewage from the Facility's collection system into or adjacent to water in the state. A sample of the unauthorized discharge was collected on May 6, 2013, and indicated an *Escherichia coli* level of greater than 2,420 most probable number/100 milliliters.
3. Respondents received notice of the violations on or about June 30, 2013.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Wayne Lee and Paula Lee d/b/a The Pines Mobile Home Park" (the "EDPRP") in the TCEQ Chief Clerk's office on March 14, 2014.
5. By letter dated March 14, 2014, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," each Respondent received notice of the EDPRP on March 18, 2014, as evidenced by the signature on the cards.

6. More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to notify the Commission of a discharge within 24 hours after the discharge occurred, in violation of TEX. WATER CODE § 26.039(b).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to prevent an unauthorized discharge of sewage from the Facility's collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and (c).
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 6, Respondents failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of twenty-four thousand nine hundred thirty-seven dollars (\$24,937.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

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

1. Respondents are assessed an administrative penalty in the amount of twenty-four thousand nine hundred thirty-seven dollars (\$24,937.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Wayne Lee and Paula Lee d/b/a The Pines Mobile Home Park; Docket No. 2013-1991-WQ-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

3. Respondents shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Respondents shall cease all unauthorized discharges from the Facility.
  - b. Within 15 days after the effective date of this Order, Respondents shall:
    - i. Begin properly maintaining and operating the lift station at the Facility; and
    - ii. Remediate all areas affected by the discharge.
  - c. Within 30 days after the effective date of this Order, Respondents shall:
    - i. Update the Facility's operational guidance and conduct employee training to ensure that reporting requirements are properly accomplished; and
    - ii. Submit the noncompliance notification for the May 2, 2013, unauthorized discharge to the TCEQ Beaumont Regional Office at the address listed in Ordering Provision No. 3.d., below, in accordance with TEX. WATER CODE § 26.039(b).
  - d. Within 45 days after the effective date of this Order, Respondents shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.c.ii. The certification 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."

Respondents shall submit the written certification 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:

Ronald Hebert, Water Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1830

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF JAKE MARX**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

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"My name is Jake Marx. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Wayne Lee and Paula Lee d/b/a The Pines Mobile Home Park" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 14, 2014.

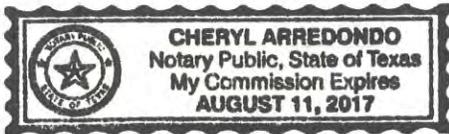
The EDPRP was mailed to Respondents' last known address on March 14, 2014, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green cards," Respondents received notice of the EDPRP on March 18, 2014, as evidenced by the signature on the cards.

More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing."

  
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Jake Marx, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jake Marx, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 19<sup>th</sup> day of June, A.D. 2014.



Notary without Bond

  
\_\_\_\_\_  
Notary Signature