Executive Summary – Enforcement Matter – Case No. 48984
Yes Companies, LLC
RN107191165
Docket No. 2014-0998-WQ-E

Order Type:
Findings Agreed Order
Findings Order Justification:
People or environmental receptors have been exposed to pollutants which exceed levels that are protective.
Media:
WQ
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
Southfork Mobile Home Community Sewage Collection System, 216 Southfork Boulevard, Wylie, Collin County
Type of Operation:
Mobile home community with an associated wastewater collection system
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: September 19, 2014
Comments Received: No

Penalty Information

Total Penalty Assessed: $4,875
Amount Deferred for Expedited Settlement: $0
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $4,875
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - High
Site/RN - N/A
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: April 2014

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Yes Companies, LLC
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Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 21, 2014
Date(s) of NOE(s): July 3, 2014

Violation Information

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 26, 2014, the Respondent repaired the broken seal clamp, remediated the affected areas, recovered the dead fish, and properly disposed of the wastewater collected from the unauthorized discharge.

Technical Requirements:

N/A

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: Jason Fraley, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2552; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: Walter L. Moreland, Authorized Person, Yes Companies, LLC, 2401 15th Street, Suite 350, Denver, Colorado 80202-1176
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 4 (April 2014) — *PCW Revision March 26, 2014*

DATES

Assigned	7-Jul-2014				
PCW	21-Jul-2014	**Screening**	15-Jul-2014	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	Yes Companies, LLC		
Reg. Ent. Ref. No.	RN107191165		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	48984	**No. of Violations**	1
Docket No.	2014-0998-WQ-E	**Order Type**	Findings
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	Jason Fraley
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 **Maximum** $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **-10.0%** Enhancement — ***Subtotals 2, 3, & 7*** **-$750**

Notes: Reduction for a High Performer classification.

Culpability No **0.0%** Enhancement — ***Subtotal 4*** **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — ***Subtotal 5*** **-$1,875**

Economic Benefit **0.0%** Enhancement* — ***Subtotal 6*** **$0**

Total EB Amounts $9

Estimated Cost of Compliance $11,554

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$4,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$4,875**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$4,875**

DEFERRAL **0.0%** Reduction — ***Adjustment*** **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$4,875**

Screening Date 15-Jul-2014 **Docket No.** 2014-0998-WQ-E **PCW**

Respondent Yes Companies, LLC *Policy Revision 4 (April 2014)*

Case ID No. 48984 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN107191165

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for a High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage **capped at 100%* -10%

Screening Date 15-Jul-2014 **Docket No.** 2014-0998-WQ-E **PCW**

Respondent Yes Companies, LLC *Policy Revision 4 (April 2014)*

Case ID No. 48984 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN107191165

Media [Statute] Water Quality

Enf. Coordinator Jason Fraley

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on March 21, 2014. Specifically, on March 20, 2014, approximately 240,000 gallons of untreated wastewater was discharged as a result of a line break in the collection system. The wastewater flowed northeast into an unnamed channel thence into a pond in the Sage Creek Housing Community, resulting in approximately 345 dead fish.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual	x		
	Potential			

Percent 30.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $17,500

$7,500

Violation Events

Number of Violation Events 1 | 1 Number of violation days

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

One daily event is recommended, calculated from the date the unauthorized discharge was discovered, March 20, 2014, to the date the unauthorized discharge ceased, March 21, 2014.

Good Faith Efforts to Comply

25.0% Reduction $1,875

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

Notes: The Respondent achieved compliance on March 26, 2014.

Violation Subtotal $5,625

Economic Benefit (EB) for this violation

Estimated EB Amount $9

Statutory Limit Test

Violation Final Penalty Total $4,875

This violation Final Assessed Penalty (adjusted for limits) $4,875

Economic Benefit Worksheet

Respondent Yes Companies, LLC
Case ID No. 48984
Reg. Ent. Reference No. RN107191165
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$11,554	20-Mar-2014	26-Mar-2014	0.02	$9	n/a	$9
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Actual cost to remediate the affected areas, recover the dead fish, properly dispose of the wastewater collected from the unauthorized discharge, and replace the broken seal clamp. Date required is the date the unauthorized discharge was discovered, and the final date is 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]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $11,554

TOTAL $9

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 CN603323288, RN107191165, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603323288, Yes Companies, LLC	**Classification:** HIGH	**Rating:** 0.00
Regulated Entity:	RN107191165, Southfork Mobile Home Community Sewage Collection System	**Classification:** NOT APPLICABLE	**Rating:** N/A
Complexity Points:	N/A	**Repeat Violator:** N/A	
CH Group:	14 - Other		
Location:	216 SOUTHFORK BOULEVARD, WYLIE, COLLIN COUNTY, TEXAS		
TCEQ Region:	REGION 04 - DFW METROPLEX		

ID Number(s):
WATER QUALITY NON PERMITTED ID NUMBER R04107191165

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: July 15, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 15, 2009 to July 15, 2014

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

Name: Jason Fraley **Phone:** (512) 239-2552

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?	NO
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.

N/A

F. Environmental audits:
N/A

G. Type of environmental management systems (EMSs):
N/A

H. Voluntary on-site compliance assessment dates:
N/A

I. Participation in a voluntary pollution reduction program:
N/A

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
YES COMPANIES, LLC	§	
RN107191165	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2014-0998-WQ-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 Yes Companies, LLC (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it 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 community located at 216 Southfork Boulevard and an associated wastewater collection system in Wylie, Collin County, Texas (the "Facility").

2. The Respondent has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. During an investigation conducted on March 21, 2014, TCEQ staff documented that on March 20, 2014, approximately 240,000 gallons of untreated wastewater was discharged as a result of a line break in the collection system. The wastewater flowed northeast into an unnamed channel thence into a pond in the Sage Creek Housing Community, resulting in approximately 345 dead fish.

4. The Respondent received notice of the violations on July 17, 2014.

5. The Executive Director recognizes that by March 26, 2014, the Respondent repaired the broken seal clamp, remediated the affected areas, recovered the dead fish, and properly disposed of the wastewater collected from the unauthorized discharge.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on March 21, 2014, in violation of TEX. WATER CODE § 26.121(a)(1).

3. Pursuant to TEX. WATER CODE § 7.051, 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.

4. An administrative penalty in the amount of Four Thousand Eight Hundred Seventy-Five Dollars ($4,875) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Four Thousand Eight Hundred Seventy-Five Dollar ($4,875) 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 Four Thousand Eight Hundred Seventy-Five Dollars ($4,875) as set forth in Section II, Paragraph 4 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: Yes Companies, LLC, Docket No. 2014-0998-WQ-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 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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

_____ 12/17/14
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Yes Companies, LLC. I am authorized to agree to the attached Agreed Order on behalf of Yes Companies, LLC, 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, Yes Companies, LLC 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.

_____ August 20, 2014
Signature Date

WALTER L. MORELAND Authorized Person
Name (Printed or typed) Title
Authorized Representative of
Yes Companies, LLC

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.