

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0972-PWS-E TCEQ ID: RN101247328 CASE NO.: 33840
RESPONDENT NAME: BRIAN FABRE DBA FAY BEN MOBILE HOME PARK

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 7346 County Road 6100, Shallowater, Lubbock County</p> <p>TYPE OF OPERATION: Public water system</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12 (713) 422-8914 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717 TCEQ Regional Contact: Mr. Patrick Cooke, Lubbock Regional Office, MC R-2, (806) 796-7092 Respondent: Mr. Brian Fabre, Owner, Fay Ben Mobile Home Park, 7322 County Road 6100, Shallowater, TX 79363 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 25, 2007</p> <p>Date of NOE Relating to this Case: May 31, 2007</p> <p>Background Facts: The case was referred to the Litigation Division on May 29, 2008. EDPRP was filed on July 21, 2008. The Respondent filed an Answer on August 28, 2008. The Respondent signed an agreed order on January 9, 2009.</p> <p>Current Compliance Status: The Respondent has not completed the Technical Requirements since the Agreed Order was signed on January 9, 2009.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN. CODE § 290.121(a)]. Failed to install all water system electrical wiring in accordance with local or national electrical codes [30 TEX. ADMIN. CODE § 290.46(v)]. Failed to post a legible sign displaying the name of the water supply and an emergency telephone number where a responsible official can be contacted at each production, treatment, and storage facility [30 TEX. ADMIN. CODE § 290.46(t)]. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a water-tight condition [30 TEX. ADMIN. CODE § 290.46(m)(4)]. Failed to meet the construction, disinfection, protection, and testing requirements prior to placing a public water supply well into service [30 TEX. ADMIN. CODE § 290.41(c)(3)]. 	<p>Initial Calculated Penalty: \$1,612</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$112/\$1,500</p> <p>The Respondent has paid \$112 of the administrative penalty. The remaining amount of \$1,500 of the administrative penalty shall be payable in 15 monthly payments of \$100 each.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions: The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, the Respondent shall: <ol style="list-style-type: none"> Develop and begin maintaining an up-to-date chemical and microbiological monitoring plan; Install all water system electrical wiring in a securely mounted conduit in compliance with local or national electrical codes; and Post a legible system ownership sign at well no. 2. The sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where responsible staff can be contacted. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions 1.a. through 1.c. Within 60 days; <ol style="list-style-type: none"> Repair the leaking pressure tank so that the Facility is being maintained in a watertight condition; and Submit documentation that well no. 2 meets all requirements necessary for approval as a public water supply source. Within 75 days, submit written certification to demonstrate compliance with Ordering Provision 3.a. and 3.b.

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 25, 2007

TCEQ

DATES	Assigned	4-Jun-2007		
	PCW	14-May-2008	Screening	14-Jun-2007
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Brian Fabre dba Fay Ben Mobile Home Park		
Reg. Ent. Ref. No.	RN101247328		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33840	No. of Violations	5
Docket No.	2007-0972-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Tel Croston
Multi-Media		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 29% Enhancement **Subtotals 2, 3, & 7**

Notes:

Culpability No

Notes:

Good Faith Effort to Comply 0% Reduction **Subtotal 5**

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

Notes:

Total EB Amounts 0% Enhancement* **Subtotal 6**
 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes:

PAYABLE PENALTY

Screening Date 14-Jun-2007

Docket No. 2007-0972-PWS-E

PCW

Respondent Brian Fabre dba Fay Ben Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 33840

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101247328

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	12	24%
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 judgements 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) 29%

>> 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

Respondent has one Notice of Violation ("NOV") for the same or similar type violation and 12 dissimilar violations at this site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 14-Jun-2007 **Docket No.** 2007-0972-PWS-E **PCW**
Respondent Brian Fabre dba Fay Ben Mobile Home Park *Policy Revision 2 (September 2002)*
Case ID No. 33840 *PCW Revision May 25, 2007*
Reg. Ent. Reference No. RN101247328
Media [Statute] Public Water Supply
Enf. Coordinator Tel Croston
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text" value="Failed to comply with 100% of the rule requirement."/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$30"/>	Violation Final Penalty Total <input type="text" value="\$129"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$129"/>	

Economic Benefit Worksheet

Respondent Brian Fabre dba Fay Ben Mobile Home Park
Case ID No. 33840
Reg. Ent. Reference No. RN101247328
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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	25-Apr-2007	1-Jul-2008	1.2	\$30	n/a	\$30

Notes for DELAYED costs

The delayed costs include the amount to prepare and begin maintaining a chemical and microbiological monitoring plan for the distribution system, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500
TOTAL \$30

Screening Date 14-Jun-2007

Docket No. 2007-0972-PWS-E

PCW

Respondent Brian Fabre dba Fay Ben Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 33840

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101247328

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brian Fabre dba Fay Ben Mobile Home Park
Case ID No. 33840
Reg. Ent. Reference No. RN101247328
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$200	25-Apr-2007	1-Jul-2008	1.2	\$1	\$16	\$17
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount to install the electrical wiring in a conduit so that it is no longer exposed, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$17

Screening Date 14-Jun-2007

Docket No. 2007-0972-PWS-E

PCW

Respondent Brian Fabre dba Fay Ben Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 33840

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101247328

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

OR

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brian Fabre dba Fay Ben Mobile Home Park
Case ID No. 33840
Reg. Ent. Reference No. RN101247328
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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$25	25-Apr-2007	1-Jul-2008	1.2	\$1	n/a	\$1

Notes for DELAYED costs

The delayed costs includes the estimated amount to post proper signs at Well No. 2, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$25

TOTAL \$1

Screening Date 14-Jun-2007

Docket No. 2007-0972-PWS-E

PCW

Respondent Brian Fabre dba Fay Ben Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 33840

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101247328

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brian Fabre dba Fay Ben Mobile Home Park
Case ID No. 33840
Reg. Ent. Reference No. RN101247328
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,000	25-Apr-2007	1-Sep-2008	1.4	\$5	\$90	\$95
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair leaks in the pressure tank, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$95

Screening Date 14-Jun-2007

Docket No. 2007-0972-PWS-E

PCW

Respondent Brian Fabre dba Fay Ben Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 33840

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN101247328

Media [Statute] Public Water Supply

Enf. Coordinator Tel Croston

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Brian Fabre dba Fay Ben Mobile Home Park
Case ID No. 33840
Reg. Ent. Reference No. RN101247328
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,500	25-Apr-2007	1-Sep-2008	1.4	\$7	\$136	\$142
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to bring the well into compliance with standards, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$142

Compliance History

Customer/Respondent/Owner-Operator:	CN603069634	FABRE, BRIAN	Classification:	Rating:
Regulated Entity:	RN101247328	FAY BEN MOBILE HOME PARK	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	1520225
	WATER LICENSING		LICENSE	1520225
Location:	7346 COUNTY ROAD 6100, Lubbock County, TX, 79363			
TCEQ Region:	REGION 02 - LUBBOCK			
Date Compliance History Prepared:	December 20, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 20, 2002 to December 20, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Tel Croston</u>	Phone:	<u>239-5717</u>	

Site Compliance History Components

- | | |
|--|-------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Brian Fabre |
| 4. If Yes, who was/were the prior owner(s)? | Fay Mason |
| 5. When did the change(s) in ownership occur? | 8/1/2006 |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

- | | | |
|----|------------|----------|
| 1 | 04/29/2004 | (270735) |
| 2 | 02/09/2005 | (515889) |
| 3 | 02/09/2005 | (403641) |
| 4 | 02/09/2005 | (515903) |
| 5 | 02/09/2005 | (515950) |
| 6 | 02/09/2005 | (515902) |
| 7 | 09/09/2005 | (515957) |
| 8 | 11/14/2005 | (515958) |
| 9 | 01/27/2006 | (450157) |
| 10 | 02/06/2006 | (515959) |
| 11 | 05/19/2006 | (515961) |
| 12 | 07/20/2006 | (515963) |
| 13 | 08/01/2006 | (489618) |
| 14 | 09/21/2006 | (513301) |
| 15 | 11/07/2006 | (541422) |
| 16 | 03/12/2007 | (557600) |
| 17 | 05/09/2007 | (558728) |
| 18 | 05/31/2007 | (559859) |
| 19 | 06/25/2007 | (564677) |

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

- | | | | |
|---|------------------|---|--------------------------|
| 1 | Date: 02/09/2005 | (515950) | |
| | Self Report? | NO | Classification: Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C) | |

2 Description: System violated the maximum contaminant level for the running annual average for fluoride in the 4th quarter of 2004.
Date: 02/09/2005 (515903)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the 3rd quarter of 2004.

3 Date 02/09/2005 (403641)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the running annual average for fluoride in fourth quarter of 2003.

4 Date 02/09/2005 (515902)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the 2nd quarter of 2004.

5 Date 02/09/2005 (515889)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the 1st quarter of 2004.

6 Date 09/09/2005 (515957)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the 2nd quarter of 2005.

7 Date 11/14/2005 (515958)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the 3rd quarter of 2005.

8 Date 01/26/2006 (450157)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
Description: Failure to properly complete and maintain Monthly Operating Reports.
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to prepare and implement a Monitoring Plan.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)
Description: Failure to properly vent the well.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
Description: Failure to perform maintenance on the horizontal 0.001 MG pressure tank.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

9 Date 02/06/2006 (515959)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the 4th quarter of 2005.

10 Date 05/19/2006 (515961)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the first quarter of 2006.

11 Date 07/20/2006 (515963)
Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THC Chapter 341, SubChapter A 341.0315(c)
Description: System violated the maximum contaminant level for the running annual average for fluoride in the second quarter of 2006.

12 Date 11/07/2006 (541422)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: System violated the maximum contaminant level for the running annual average for fluoride for the third quarter of 2006

13 Date 03/12/2007 (557600)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: System violated the maximum contaminant level for the running annual average for fluoride for the fourth quarter of 2006.

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
BRIAN FABRE DBA FAY BEN
MOBILE HOME PARK;
RN101247328

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0972-PWS-E
I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brian Fabre dba Fay Ben Mobile Home Park ("Mr. Fabre") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and 30 TEX. ADMIN. CODE ch. 290. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Fabre, appear before the Commission and together stipulate that:

1. Mr. Fabre owns and operates a public water system located at 7346 County Road 6100, Shallowater, Lubbock County, Texas (the "Facility") that has 131 service connections and serves at least 25 people per day for at least 60 days per year.
2. This Agreed Order is entered into pursuant to TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and TCEQ rules.
3. The Commission and Mr. Fabre agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Fabre is subject to the Commission's jurisdiction.
4. Mr. Fabre received notice of the violations on or about June 5, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Fabre of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one thousand six hundred twelve dollars (\$1,612.00) is assessed by the Commission in settlement of the violations alleged in Section

- II ("Allegations"). Mr. Fabre has paid one hundred twelve dollars (\$112.00) of the administrative penalty. The remaining amount of one thousand five hundred dollars (\$1,500.00) of the administrative penalty shall be payable in 15 monthly payments of one hundred dollars (\$100.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Fabre fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Fabre to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Fabre to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and Mr. Fabre have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Fabre has not complied with one or more of the terms or conditions in this Agreed Order.
 10. 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.
 11. 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.

II. ALLEGATIONS

Mr. Fabre, as owner and operator of the Facility, is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 290.121(a) by failing to maintain an up-to-date chemical and microbiological monitoring plan, as documented during an investigation conducted on April 25, 2007. Specifically, at the time of the investigation, Mr. Fabre failed to provide a monitoring plan.
2. 30 TEX. ADMIN. CODE § 290.46(v) by failing to install all water system electrical wiring in

accordance with local or national electrical codes, as documented during an investigation conducted on April 25, 2007. Specifically, at the time of the investigation, wiring at wells Nos. 1 and 2 were exposed.

3. 30 TEX. ADMIN. CODE § 290.46(t) by failing to post a legible sign displaying the name of the water supply and an emergency telephone number where a responsible official can be contacted at each production, treatment, and storage facility, as documented during an investigation conducted on April 25, 2007. Specifically, at the time of the investigation, there was no sign post at well No. 2.
4. 30 TEX. ADMIN. CODE § 290.46(m)(4) by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a water-tight condition, as documented during an investigation conducted on April 25, 2007. Specifically, at the time of the investigation, the 10,000 gallon pressure tank was leaking.
5. 30 TEX. ADMIN. CODE § 290.41(c)(3) by failing to meet the construction, disinfection, protection, and testing requirements prior to placing a public water supply well into service, as documented during an investigation conducted on April 25, 2007. Specifically, at the time of the investigation, well No. 2 was in service but had not been approved as a public water supply well and did not meet the requirements for well construction.

III. DENIALS

Mr. Fabre generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Fabre pay administrative penalties as set forth in Section I, Paragraph 6 above. The payment of these administrative penalties and Mr. Fabre's compliance with all the terms and conditions set forth in this Agreed Order resolve only those matters described here. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be sent with the notation "Re: Brian Fabre dba Fay Ben Mobile Home Park; Docket No. 2007-0972-PWS-E"; Enforcement ID No. 33840 to:

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

2. Mr. Fabre shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Fabre shall:
 - i. Develop and begin maintaining an up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121;
 - ii. Install all water system electrical wiring in a securely mounted conduit in compliance with local or national electrical codes, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Post a legible system ownership sign at well no. 2. The sign shall be located in plain view of the public and shall provide the name of the water supply and an emergency telephone number where responsible staff can be contacted, as required by 30 TEX. ADMIN. CODE § 290.46.
 - b. Within 45 days after the effective date of this Agreed Order, Mr. Fabre shall submit written certification as detailed in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 60 days after the effective date of this Agreed Order, Mr. Fabre shall:
 - i. Repair the leaking pressure tank so that the Facility is being maintained in a watertight condition, as required by 30 TEX. ADMIN. CODE § 290.46; and
 - ii. Submit documentation that well no. 2 meets all requirements necessary for approval as a public water supply source, as required by 30 TEX. ADMIN. CODE § 290.41.
 - d. Within 75 days after the effective date of this Agreed Order, Mr. Fabre shall submit written certification as described below, and include a copy of the water analysis to demonstrate compliance with Ordering Provision No. 2.c.

- e. The certifications required by Ordering Provisions Nos. 2.b. and 2.d. 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 fine 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:

Alicia Diehl, Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
Post Office Box 13087
Austin, Texas 78711-3087

and

Patrick Cooke, Water Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
4630 50th Street, Suite 600
Lubbock, Texas 79414-3520

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Fabre. Mr. Fabre 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 Mr. Fabre shall be made in writing to the Executive Director. Extensions are not effective until Mr. Fabre receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Fabre 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 the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Fabre, or three days after the date on which the Commission mails notice of the Order to Mr. Fabre, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Brian Fabre dba Fay Ben Mobile Home Park
TCEQ Docket No. 2007-0972-PWS-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

2/2/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

[Signature]
Signature

Jan 09
Date

BRIAN FABRE
Name (Printed or typed)
Authorized representative of
Brian Fabre dba Fay Ben Mobile Home Park

Owner
Title