

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43373
VIRGINIA FRANKLIN FULLER DBA FRANKLIN WATER SYSTEMS 1
AND DBA FRANKLIN WATER SYSTEMS 3
RN102817038 AND RN101264372
Docket No. 2012-0171-PWS-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Franklin Water Systems 1 - 4701 Idalou Road, Lubbock, Lubbock County

Franklin Water Systems 3 - 4813 Idalou Road, Lubbock, Lubbock County

Type of Operation:

public water systems

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: \$1,750 (2001-0837-PWS-E)
\$700 (2009-1295-PWS-E; payment plan)

Past-Due Fees: \$1,826.24 (FA Account No. 91520224)
\$1,976.24 (FA Account No. 91520080)

Other: None

Interested Third-Parties: None

Texas Register Publication Date: December 7, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,381

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$5,381

Compliance History Classifications:

Person/CN -N/A

Site/RN -N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 2)
September 2011 (PCWs 1 and 3)

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VIRGINIA FRANKLIN FULLER DBA FRANKLIN WATER SYSTEMS 1
AND DBA FRANKLIN WATER SYSTEMS 3
RN102817038 AND RN101264372
Docket No. 2012-0171-PWS-E

Investigation Information

Complaint Date(s):	N/A
Date(s) of Investigation:	September 30, 2011; May 7, 2012 (Franklin Water Systems 1) December 12, 2011; May 7, 2012 (Franklin Water Systems 3)
Date(s) of NOV(s):	November 9, 2011 (Franklin Water Systems 1) July 27, 2009 (Franklin Water Systems 3)
Date(s) of NOE(s):	May 8, 2012 (Franklin Water Systems 1) December 21, 2011 (Franklin Water Systems 3)

Violation Information

Franklin Water Systems 1

1. Failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition [30 TEX. ADMIN. CODE § 290.46(u)].
2. Failed to pay all annual and late Public Health Service (“PHS”) fees for TCEQ Financial Administration (“FA”) Account No. 91520224 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(3)].

Franklin Water Systems 3

3. Failed to provide the results of quarterly nitrate sampling for the fourth quarter of 2006 through the second quarter of 2011 [30 TEX. ADMIN. CODE § 290.106(e)].
4. Failed to provide the results of triennial sampling for synthetic organic contaminants and metal levels for the reporting period from January 1, 2005 through December 31, 2007, and January 1, 2008 through December 31, 2010 [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e)].
5. Failed to provide the results of triennial sampling for radionuclide contaminant levels for the sampling period from January 1, 2007 through December 31, 2009, for sampling sites Entry Point (“EP”) 004, EP006 and EP007, and for the sampling period from January 1, 2006 through December 31, 2008 for sampling site EP001 [30 TEX. ADMIN. CODE § 290.108(e)].
6. Failed to provide the results of annual sampling for volatile organic compounds (“VOCs”) for 2007 through 2010, radionuclide for 2006, and disinfectant byproduct (“DBP”) levels for 2006 through 2010 [30 TEX. ADMIN. CODE §§ 290.107(e), 290.108(e) and 290.113(e)].
7. Failed to pay PHS fees for TCEQ FA Account No. 91520080 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(3)].
8. Failed to provide the results of quarterly nitrate sampling results for the fourth quarter of 2011 [30 TEX. ADMIN. CODE § 290.106(e)].
9. Failed to provide the results of triennial sampling for mineral and radionuclide levels for the sampling period from January 1, 2009, through December 31, 2011 [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.108(e)].
10. Failed to provide the results of annual sampling for VOCs and DBP contaminant levels for the 2011 reporting period [30 TEX. ADMIN. CODE §§ 290.107(e) and 290.113(e)].
11. Failed to provide the results of the six year monitoring period for cyanide levels for the reporting period from January 1, 2006, through December 31, 2011 [30 TEX. ADMIN. CODE §§ 290.106(e)].

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43373
VIRGINIA FRANKLIN FULLER DBA FRANKLIN WATER SYSTEMS 1
AND DBA FRANKLIN WATER SYSTEMS 3
RN102817038 AND RN101264372
Docket No. 2012-0171-PWS-E
Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days:
 - a. Ensure that all delinquent drinking water chemical analysis results are reported to the TCEQ's Executive Director or demonstrate that a compliance schedule has been established for Franklin Water Systems 3;
 - b. Implement improvements to Franklin Water Systems 3's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the TCEQ's Executive Director within ten days of Executive Director request or of receipt by the Facility, whichever is later; and
 - c. Submit payment for all outstanding fees, interest and late penalties for TCEQ FA Accounts Nos. 91520224 and 91520080.
2. Within 180 days, either plug Well No. 2 at Franklin Water Systems 1, or test the well to prove that the well is in a non-deteriorated condition.
3. Submit written certification to demonstrate compliance:
 - a. Within 45 days for Technical Requirement No. 1;
 - b. Within 195 days for Technical Requirement No. 2.

Litigation Information

Date Petition(s) Filed: June 29, 2012 (EDPRP); August 13, 2012 (EDFARP)

Date Green Card(s) Signed: July 2, 2012 (EDPRP); August 15, 2012 (EDFARP)

Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Katy Schumann, Enforcement Division, (512) 239- 2609

TCEQ Regional Contact: Gary Shipp, Lubbock Regional Office, (806) 796-7092

Respondent: Virginia Franklin Fuller, 401 N Carroll Ave, Ste. 156, Southlake, Texas 76092

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	14-May-2012		
	PCW	25-Jun-2012	Screening	18-May-2012
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Virginia Franklin Fuller dba Franklin Water Systems 1		
Reg. Ent. Ref. No.	RN102817038		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43373	No. of Violations	2
Docket No.	2012-0171-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		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	42.0% Enhancement	Subtotals 2, 3, & 7	<input type="text" value="\$63"/>
Notes	Enhancement for one NOV with same/similar violations, six NOVs with dissimilar violations and one final enforcement order without a denial of liability.		
Culpability	No 0.0% Enhancement	Subtotal 4	<input type="text" value="\$0"/>
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	<input type="text" value="\$0"/>
Economic Benefit	0.0% Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$175"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$1,500"/>		
SUM OF SUBTOTALS 1-7		Final Subtotal	<input type="text" value="\$213"/>

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

	<input type="text" value="0.0%"/>	Adjustment	<input type="text" value="\$0"/>
Notes			
		Final Penalty Amount	<input type="text" value="\$213"/>

STATUTORY LIMIT ADJUSTMENT**Final Assessed Penalty** **DEFERRAL**

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

	<input type="text" value="0.0%"/>	Reduction Adjustment	<input type="text" value="\$0"/>
Notes	Deferral not offered for non-expedited settlement.		

PAYABLE PENALTY

Screening Date 18-May-2012 **Docket No.** 2012-0171-PWS-E
Respondent Virginia Franklin Fuller dba Franklin Water System
Case ID No. 43373
Reg. Ent. Reference No. RN102817038
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 42%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, six NOVs with dissimilar violations and one final enforcement order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 42%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 42%

Screening Date	18-May-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 1			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43373			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102817038			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 290.46(u)
Violation Description	Failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition. Specifically, Well No. 2 has not been connected to the distribution system, used or tested within the past five years and is currently inoperable.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="15.0%"/>

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Failure to plug or test the abandoned well could expose customers of the Facility to contaminants which would exceed levels that are protective of human health or the environment.					

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<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

One monthly event is recommended, calculated from the record review date, May 7, 2012, to the screening date, May 18, 2012.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 1
Case ID No. 43373
Reg. Ent. Reference No. RN102817038
Media Violation No. Public Water Supply
 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)	\$1,500	30-Sep-2011	31-May-2013	1.67	\$8	\$167	\$175
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount necessary to plug or test Well No. 2 every five years to show it is in a non-deteriorated condition. The date required is the date of the investigation originally documenting the violation, and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,500	TOTAL	\$175
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Screening Date 18-May-2012 **Docket No.** 2012-0171-PWS-E **PCW**
Respondent Virginia Franklin Fuller dba Franklin Water Systems 1 *Policy Revision 3 (September 2011)*
Case ID No. 43373 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN102817038
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702

Violation Description

Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 91520224 for Fiscal Years 2003 through 2012.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 1
Case ID No. 43373
Reg. Ent. Reference No. RN102817038
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

N/A

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

N/A

Approx. Cost of Compliance

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Jan-2012	
	PCW	7-Jun-2012	
	Screening	17-Jan-2012	
	EPA Due	30-Jun-2008	

RESPONDENT/FACILITY INFORMATION

Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3		
Reg. Ent. Ref. No.	RN101264372		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43373	No. of Violations	5
Docket No.	2012-0171-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: Enhancement for one NOV with same/similar violations, three NOVs with dissimilar violations and one final enforcement order without a denial of liability.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts **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.

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

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

Screening Date 17-Jan-2012 Docket No. 2012-0171-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Policy Revision 2 (September 2002)

Case ID No. 43373

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 36%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, three NOVs with dissimilar violations and one final enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 36%

Screening Date	17-Jan-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3			
Case ID No.	43373	<i>Policy Revision 2 (September 2002)</i>		
Reg. Ent. Reference No.	RN101264372	<i>PCW Revision October 30, 2008</i>		
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 290.106(e)
Violation Description	Failed to provide the results of quarterly nitrate sampling to the TCEQ's Executive Director. Specifically, the Respondent failed to provide nitrate monitoring results for the fourth quarter of 2006 through the second quarter of 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events	<input type="text" value="19"/>	<input type="text" value="1825"/>	Number of violation days	Violation Base Penalty <input type="text" value="\$1,900"/>														
<table border="1"> <tr> <td rowspan="7" style="vertical-align: middle;"><i>mark only one with an x</i></td> <td>daily</td> <td><input type="text"/></td> </tr> <tr> <td>weekly</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td>x</td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td><input type="text"/></td> </tr> </table>					<i>mark only one with an x</i>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	x	semiannual	<input type="text"/>	annual	<input type="text"/>	single event
<i>mark only one with an x</i>	daily	<input type="text"/>																
	weekly	<input type="text"/>																
	monthly	<input type="text"/>																
	quarterly	x																
	semiannual	<input type="text"/>																
	annual	<input type="text"/>																
	single event	<input type="text"/>																

Good Faith Efforts to Comply Reduction

	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	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

Violation Subtotal

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2,931"/>	Violation Final Penalty Total <input type="text" value="\$2,584"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,584"/>	

Economic Benefit Worksheet

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,233	1-Jan-2005	31-Dec-2012	8.00	\$140	\$2,792	\$2,931
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release all drinking water chemical analysis results. The date required is the last date of the first monitoring period for which results were not provided and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$5,233	TOTAL	\$2,931
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Screening Date	17-Jan-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43373			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101264372			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <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"/>
weekly	<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

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed costs are captured in the economic benefit worksheet associated with Violation No. 1.

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

TOTAL

Screening Date	17-Jan-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3			
Case ID No.	43373	<i>Policy Revision 2 (September 2002)</i>		
Reg. Ent. Reference No.	RN101264372	<i>PCW Revision October 30, 2008</i>		
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number	3
Rule Cite(s)	30 Tex. Admin. Code § 290.108(e)
Violation Description	Failed to provide the results of triennial sampling for radionuclide contaminant levels to the TCEQ's Executive Director. Specifically, the Respondent failed to provide radionuclide monitoring results for the sampling period from January 1, 2007 through December 31, 2009 for sampling sites Entry Point ("EP") 004, EP006 and EP007 and failed to provide radionuclide monitoring results for the reporting period from January 1, 2006 through December 31, 2008 for sampling site EP001.
Base Penalty	\$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential				0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			
Matrix Notes	100% of the rule requirement was not met.				
Adjustment	\$900				

Violation Events

Number of Violation Events	2	1460	Number of violation days
<i>mark only one with an x</i>	daily		Violation Base Penalty
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
single event	x		\$200
Two single events are recommended, calculated for the periods in which the results were not reported.			

Good Faith Efforts to Comply

	0.0% Reduction		\$0
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal	\$200		

Economic Benefit (EB) for this violation

Statutory Limit Test	
Estimated EB Amount	\$0
Violation Final Penalty Total	\$272
This violation Final Assessed Penalty (adjusted for limits)	\$272

Economic Benefit Worksheet

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed costs are captured in the economic benefit worksheet associated with Violation No. 1.

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

TOTAL

Screening Date 17-Jan-2012 **Docket No.** 2012-0171-PWS-E **PCW**
Respondent Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373 *Policy Revision 2 (September 2002)*
Reg. Ent. Reference No. RN101264372 *PCW Revision October 30, 2008*
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 290.107(e), 290.108(e) and 290.113(e)

Violation Description
 Failed to provide the results of annual sampling for volatile organic contaminants ("VOCs"), radionuclide and disinfectant byproduct ("DBP") contaminant levels to the TCEQ's Executive Director. Specifically, the Respondent failed to provide VOC monitoring results for 2007 through 2010 and radionuclide monitoring results for 2006 and DBP monitoring results for 2006 through 2010.

Base Penalty \$1,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 10 1825 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

Ten annual events are recommended, (one event for each report) calculated for the years in which results were not reported.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,360

This violation Final Assessed Penalty (adjusted for limits) \$1,360

Economic Benefit Worksheet

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed costs are captured in the economic benefit worksheet associated with Violation No. 1.

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

TOTAL

Screening Date 17-Jan-2012 **Docket No.** 2012-0171-PWS-E **PCW**
Respondent Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373 *Policy Revision 2 (September 2002)*
Reg. Ent. Reference No. RN101264372 *PCW Revision October 30, 2008*
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

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="0%"/>
	Potential	<input type="text"/>	<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"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction
 Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

N/A

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

N/A

Approx. Cost of Compliance

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Jan-2012	Screening	18-May-2012	EPA Due	30-Jun-2008
	PCW	27-Jun-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3		
Reg. Ent. Ref. No.	RN101264372		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43373	No. of Violations	4
Docket No.	2012-0171-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Katy Schumann
		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	36.0% Enhancement	Subtotals 2, 3, & 7	<input type="text" value="\$108"/>
Notes	Enhancement for one NOV with same/similar violations, three NOVs with dissimilar violations and one final enforcement order without a denial of liability.		
Culpability	No 0.0% Enhancement	Subtotal 4	<input type="text" value="\$0"/>
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	<input type="text" value="\$0"/>
Economic Benefit	0.0% Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$66"/>	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	<input type="text" value="\$936"/>		
SUM OF SUBTOTALS 1-7		Final Subtotal	<input type="text" value="\$408"/>

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

	0.0%	Adjustment	<input type="text" value="\$0"/>
Notes			
		Final Penalty Amount	<input type="text" value="\$408"/>

STATUTORY LIMIT ADJUSTMENT**Final Assessed Penalty** **DEFERRAL**

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

	0.0%	Adjustment	<input type="text" value="\$0"/>
Notes	Deferral not offered for non-expedited settlement.		

PAYABLE PENALTY

Screening Date 18-May-2012 Docket No. 2012-0171-PWS-E

PCW

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3

Case ID No. 43373

Reg. Ent. Reference No. RN101264372

Media [Statute] Public Water Supply

Enf. Coordinator Katy Schumann

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 36%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, three NOVs with dissimilar violations and one final enforcement order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 36%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 36%

Screening Date	18-May-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43373			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101264372			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$936	31-Dec-2011	31-Dec-2012	1.00	\$3	\$63	\$66
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees so that the lab will release all drinking water chemical analysis results. The date required is the last date of the first monitoring period for which results were not provided and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$936

TOTAL \$66

Screening Date 18-May-2012 **Docket No.** 2012-0171-PWS-E **PCW**
Respondent Virginia Franklin Fuller dba Franklin Water Systems 3 *Policy Revision 3 (September 2011)*
Case ID No. 43373 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101264372
Media [Statute] Public Water Supply
Enf. Coordinator Katy Schumann

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="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed cost is captured in the economic benefit for Violation 1.

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

TOTAL

Screening Date	18-May-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43373			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101264372			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code §§ 290.107(e) and 290.113(e)			
Violation Description	Failed to provide the results of annual sampling for volatile organic contaminants ("VOCs") and disinfectant byproduct ("DBP") contaminant levels to the TCEQ's Executive Director. Specifically, the Respondent failed to provide VOC and DBP monitoring results for the 2011 reporting period.			
		Base Penalty	\$1,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 5.0%
Matrix Notes	100% of the rule requirements were not met.				
		Adjustment	\$950		
			\$50		

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	<input type="text" value="\$100"/>

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$136"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$136"/>	

Economic Benefit Worksheet

Respondent Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed cost is captured in the economic benefit for Violation 1.

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 \$0

TOTAL \$0

Screening Date	18-May-2012	Docket No.	2012-0171-PWS-E	PCW
Respondent	Virginia Franklin Fuller dba Franklin Water Systems 3			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	43373			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101264372			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Katy Schumann			

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="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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 Virginia Franklin Fuller dba Franklin Water Systems 3
Case ID No. 43373
Reg. Ent. Reference No. RN101264372
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

The delayed cost is captured in the economic benefit for Violation 1.

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

TOTAL

Compliance History Report

Customer/Respondent/Owner-Operator: CN601450232 FULLER, VIRGINIA FRANKLIN Classification: Rating:
 Regulated Entity: RN102817038 FRANKLIN WATER SYSTEMS 1 Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520224
 WATER LICENSING LICENSE 1520224

Location: 4701 IDALOU ROAD, LUBBOCK, LUBBOCK COUNTY, TEXAS
 TCEQ Region: REGION 02 - LUBBOCK
 Date Compliance History Prepared: May 18, 2012
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 18, 2007 to May 18, 2012
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Katy Schumann Phone: (512) 239-2602

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If **YES**, who is the current owner/operator? N/A
4. If **YES**, who was/were the prior owner(s)/operator(s)? N/A
5. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
- Effective Date: 10/17/2011ADMINORDER 2009-1295-PWS-E**
- Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)
 Description: Failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gpm per connection, or provides at least 1,000 gpm and is able to meet the peak hourly demands, whichever is less.
- Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1 and its equipment.
- 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 | 05/08/2012 | (1003024) |
| 2 | 09/11/2007 | (573857) |
| 3 | 08/01/2008 | (682627) |
| 4 | 12/11/2008 | (709802) |
| 5 | 07/27/2009 | (762753) |
| 6 | 01/28/2009 | (780045) |
| 7 | 04/17/2009 | (780046) |
| 8 | 07/27/2009 | (780047) |
| 9 | 10/23/2009 | (780048) |
| 10 | 10/19/2011 | (962713) |
| 11 | 11/01/2011 | (964126) |
| 12 | 01/12/2012 | (980649) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 12/12/2008 (709802) CN601450232**
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)
 Description: Failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gpm per connection, or provides at least 1,000 gpm and is able to meet the peak hourly demands, whichever is less.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)(1)
 30 TAC Chapter 290, SubChapter D 290.46(j)(1)(A)
 30 TAC Chapter 290, SubChapter D 290.46(j)(1)(B)
 Description: Failure to have Customer Service Inspections (CSIs) conducted by properly licensed individuals.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failure to complete and implement a Monitoring Plan.
- Date: 01/28/2009 (780045) CN601450232**
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)
 Description: The system failed to report 8 Disinfectant Byproducts results after completion of required samples to TCEQ.

Date: 04/17/2009 (780046) CN601450232
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)
 Description: The system failed to report 8 Disinfectant Byproducts results after completion of required samples to TCEQ.

Date: 05/29/2009 (742300) CN601450232
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(1)
 Description: Failed to make available a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gpm per connection, or provides at least 1,000 gpm and is able to meet the peak hourly demands, whichever is less.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of Facility No. 1 and its equipment.

Date: 07/27/2009 (780047) CN601450232
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)
 Description: The system failed to report 8 Disinfectant Byproducts results after completion of required samples to TCEQ.

Date: 10/23/2009 (780048) CN601450232
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(e)
 Description: The system failed to report 8 Disinfectant Byproducts results after completion of required samples to TCEQ.

Date: 11/09/2011 (964126) CN601450232
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(u)
 Description: Failure to ensure that abandoned wells that are not in use and are non-deteriorated are either tested every five years or plugged.

- 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

Customer/Respondent/Owner-Operator:	CN601450232 FULLER, VIRGINIA FRANKLIN	Classification:	Rating:
Regulated Entity:	RN101264372 FRANKLIN WATER SYSTEMS 3	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY WATER LICENSING	REGISTRATION LICENSE	1520080 1520080
Location:	4813 IDALOU ROAD, LUBBOCK, LUBBOCK COUNTY, TEXAS		
TCEQ Region:	REGION 02 - LUBBOCK		
Date Compliance History Prepared:	January 17, 2012		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 17, 2007 to January 17, 2012		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
 Name: Katy Schumann Phone: (512) 239-2602

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 10/17/2011

ADMINORDER 2009-1295-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)

Description: Failure to prevent livestock in pastures from being allowed within 50' of a water supply well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)

Description: Failure to meet the minimum required capacities.

Classification: Moderate

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

Description: Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non-deteriorated condition.

Classification: Moderate

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

30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to initiate maintenance and housekeeping practice's to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the record review, it was documented that during an investigation conducted on October 27, 2008, the investigator observed a large flooded area in the alley adjacent to Well No. 2 as a result of a hose that had been connected directly to the discharge pipe of the well as an attempt to control leaks from the well.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iii)

Description: Failed to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection at each pump station or pressure plane.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failed to maintain all distribution system lines and all related appurtenances in a watertight condition.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702

30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: During a record review of Facility No. 3 conducted on October 20, 2009, a TCEQ Central Office investigator documented that Respondent failed to pay all annual and late PHS fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Years 2005 through 2008

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702

30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: During a record review of Facility No. 1 conducted on October 20, 2009, a TCEQ Central Office investigator documented that Respondent failed to pay all annual and late Public Health Services (PHS) fees for TCEQ Financial Administration Account No. 91520224 for Fiscal Years 2005 through 2008

- 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	12/11/2008 (709801)	9	07/27/2009 (974765)	17	07/27/2009 (974868)
2	05/29/2009 (747369)	10	07/27/2009 (974812)	18	07/27/2009 (974873)
3	07/27/2009 (762762)	11	07/27/2009 (974817)	19	07/27/2009 (974908)
4	05/26/2011 (922254)	12	07/27/2009 (974828)	20	07/27/2009 (974910)
5	08/08/2011 (944997)	13	07/27/2009 (974843)	21	07/27/2009 (974915)
6	10/19/2011 (962663)	14	07/27/2009 (974846)	22	07/27/2009 (974936)
7	11/22/2011 (965117)	15	07/27/2009 (974851)	23	12/22/2011 (975122)
8	07/27/2009 (974731)	16	07/27/2009 (974863)		

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

Date:	12/12/2008	(709801)	CN601450232
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)		
Description:	Failure to prevent livestock in pastures from being allowed within 50' of a water supply well.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)		
Description:	Failure to meet the minimum required capacities.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(j)(1) 30 TAC Chapter 290, SubChapter D 290.46(j)(1)(A) 30 TAC Chapter 290, SubChapter D 290.46(j)(1)(B)		
Description:	Failure to have Customer Service Inspections (CSIs) conducted by properly licensed individuals.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(u)		
Description:	Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non deteriorated condition.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to complete and implement a Monitoring Plan.		
Date:	05/29/2009	(747369)	CN601450232
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)		
Description:	Failure to prevent livestock in pastures from being allowed within 50' of a water supply well.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(ii)		
Description:	Failure to meet the minimum required capacities.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(u)		
Description:	Failed to plug an abandoned public water supply well with cement according to 16 TEX. ADMIN. CODE ch. 76 (relating to Water Well Drillers and Water Well Pump Installers), or test the well every five years or as required by the Executive Director to prove that it is in a non-deteriorated condition.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m) 30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failed to initiate maintenance and housekeeping practice's to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, at the time of the record review, it was documented that during an investigation conducted on October 27, 2008, the investigator observed a large flooded area in the alley adjacent to Well No. 2 as a result of a hose that had been connected directly to the discharge pipe of the well as an attempt to control leaks from the well.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)		
Description:	Failure to maintain the minimum free chlorine residual of 0.2 mg/L.		
Date:	07/27/2009	(974915)	CN601450232
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 290, SubChapter F 290.106(c)(6) 30 TAC Chapter 290, SubChapter F 290.106(e)		
Description:	NO3 MR 1Q2007 - This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2007 to 03/31/2007.		
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 290, SubChapter F 290.106(c)(6) 30 TAC Chapter 290, SubChapter F 290.106(e)		
Description:	NO3 MR 2Q2007-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2007 to 06/30/2007.		
Self Report?	NO		Classification: Major
Citation:	30 TAC Chapter 290, SubChapter F 290.106(c)(6) 30 TAC Chapter 290, SubChapter F 290.106(e)		

Description: NO3 MR 4Q2007-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2007 to 12/31/2007.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(2)
 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: VOC MR YR2007-This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2007 to 12/31/2007.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO3 MR 1Q2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 01/01/2008 to 03/31/2008.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO3 MR 3Q 2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 07/01/2008 to 09/30/2008.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(3)
 30 TAC Chapter 290, SubChapter F 290.108(f)(4)

Description: RAD MR YR2006-This system failed to monitor and/or failed to report radionuclide levels at EP004, EP006, and EP007 to the TCEQ for the annual monitoring period from 01/01/2006 to 12/31/2006.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO3 MR 3Q2007-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 07/01/2007 to 09/30/2007.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO3 MR 4Q2006 - This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2006 to 12/31/2006.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO3 MR 2Q2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 04/01/2008 to 06/30/2008.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(1)
 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC MR 3Y2007-This system failed to monitor and/or failed to report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2005 to 12/31/2007.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(1)
 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC MR 3Y2010 - This system failed to monitor and/or failed to report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO3 MR 4Q 2008-This system failed to monitor and/or failed to report nitrate levels to the TCEQ for the quarterly monitoring period from 10/01/2008 to 12/31/2008.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(2)
 30 TAC Chapter 290, SubChapter F 290.107(e)

Description: VOC MR YR 2008-This system failed to monitor and/or failed to report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2008 to 12/31/2008.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)
 30 TAC Chapter 290, SubChapter F 290.106(e)

Description: MTL MR 3Y2007-This system failed to monitor and/or failed to report metal levels to the TCEQ for the triennial monitoring period from 01/01/2005 to 12/31/2007.

Date: 05/27/2011 (922254) CN601450232

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to obtain sanitary control easements.
 Self Report? NO Classification: Minor

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

Description: Failure to provide adequate well construction.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(2)
30 TAC Chapter 290, SubChapter D 290.42(e)(3)

Description: Failure to provide adequate disinfection equipment at Well #2.

Self Report? NO

Classification: Minor

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

Description: Failure to provide an ownership sign at Well #2.

- 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 VIRGINIA FRANKLIN FULLER DBA FRANKLIN WATER SYSTEMS 1 AND DBA FRANKLIN WATER SYSTEMS 3; RN102817038 AND RN101264372	§ § § § § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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DEFAULT ORDER

DOCKET NO. 2012-0171-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Virginia Franklin Fuller d/b/a Franklin Water Systems 1 and d/b/a Franklin Water Systems 3 ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates public water systems that provide water for human consumption and serve at least 25 people per day for at least 60 days per year at the following locations (the "Facilities"):
 - a. Franklin Water Systems 1, located at 4701 Idalou Road, Lubbock, Lubbock County, Texas, has approximately 54 service connections; and
 - b. Franklin Water Systems 3, located at 4813 Idalou Road in Lubbock, Lubbock County, Texas, has approximately 66 service connections.

As such, the Facilities are public water systems as defined in 30 TEX. ADMIN. CODE § 290.38(66).

2. During an investigation at Franklin Water Systems 1 conducted on September 30, 2011, and a record review conducted on May 7, 2012, a TCEQ Lubbock Regional Office investigator documented that Respondent:
 - a. Failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition. Specifically, Well No. 2 has not been connected to the distribution system, used, or treated within the past five years, and is currently inoperable; and
 - b. Failed to pay all annual and late Public Health Services ("PHS") fees for TCEQ Financial Administration ("FA") Account No. 91520224 for Fiscal Years 2003 through 2012.

3. During a record review of Franklin Water Systems 3 conducted on December 12, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to provide the results of quarterly nitrate sampling to the TCEQ's Executive Director for the fourth quarter of 2006 through the second quarter of 2011;
 - b. Failed to provide the results of triennial sampling for synthetic organic contaminants and metal levels to the TCEQ's Executive Director for the reporting period from January 1, 2005 through December 31, 2007, and January 1, 2008 through December 31, 2010;
 - c. Failed to provide the results of triennial sampling for radionuclide contaminant levels to the TCEQ's Executive Director for the sampling period from January 1, 2007 through December 31, 2009, for sampling sites Entry Point ("EP") 004, EP006, and EP007, and for the sampling period from January 1, 2006 through December 31, 2008, for sampling site EP001;
 - d. Failed to provide the results of annual sampling for volatile organic contaminants ("VOCs"), radionuclide and disinfectant byproduct ("DBP") contaminant levels to the TCEQ's Executive Director. Specifically, Respondent failed to provide VOC monitoring results for 2007 through 2010, radionuclide monitoring results for 2006, and DBP monitoring results for 2006 through 2010; and
 - e. Failed to pay PHS fees for TCEQ FA Account No. 91520080 for Fiscal Years 2003 through 2011.
4. During a record review of Franklin Water Systems 3 conducted on May 7, 2012, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to provide the results of quarterly nitrate sampling to the TCEQ's Executive Director for the fourth quarter of 2011;
 - b. Failed to provide the results of triennial sampling for mineral and radionuclide levels to the TCEQ's Executive Director for the sampling period from January 1, 2009, through December 31, 2011;
 - c. Failed to provide the results of annual sampling for VOCs and DBP contaminant levels to the TCEQ's Executive Director for the 2011 reporting period; and
 - d. Failed to provide the results of the six year monitoring period for cyanide levels to the TCEQ's Executive Director. Specifically, Respondent failed to provide cyanide monitoring results for the reporting period from January 1, 2006, through December 31, 2011.
5. Respondent received notice of the violations alleged in Finding of Fact No. 2 on or about May 13, 2012. Respondent received notice of the violations alleged in Finding of Fact No. 3 on or about December 21, 2011. Respondent received notice of the violations alleged in Finding of Fact No. 4 on or about August 15, 2012.
6. 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 Virginia Franklin Fuller d/b/a Franklin Water Systems 3" (the "EDPRP") in the TCEQ Chief Clerk's office on June 29, 2012.

7. By letter dated June 29, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on July 2, 2012, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended 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 Virginia Franklin Fuller d/b/a Franklin Water Systems 1 and d/b/a Franklin Water Systems 3" (the "EDFARP") in the TCEQ Chief Clerk's office on August 13, 2012.
9. By letter dated August 13, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on August 15, 2012, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Respondent received notice of the EDPRP and EDFARP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to plug abandoned wells or submit test results proving that the wells are in a non-deteriorated condition, in violation of 30 TEX. ADMIN. CODE § 290.46(u).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to pay all annual and late PHS fees for TCEQ FA Account No. 91520224 for Fiscal Years 2003 through 2012, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(3).
4. As evidenced by Finding of Fact No. 3.a., Respondent failed to provide the results of quarterly nitrate sampling for the fourth quarter of 2006 through the second quarter of 2011, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
5. As evidenced by Finding of Fact No. 3.b., Respondent failed to provide the results of triennial sampling for synthetic organic contaminants and metal levels for the reporting period from January 1, 2005 through December 31, 2007, and January 1, 2008 through December 31, 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.107(e).
6. As evidenced by Finding of Fact No. 3.c., Respondent failed to provide the results of triennial sampling for radionuclide contaminant levels for the sampling period from January 1, 2007 through December 31, 2009, for sampling sites EP 004, EP006 and EP007, and for the sampling period from January 1, 2006 through December 31, 2008 for sampling site EP001, in violation of 30 TEX. ADMIN. CODE § 290.108(e).
7. As evidenced by Finding of Fact No. 3.d., Respondent failed to provide the results of annual sampling for VOCs for 2007 through 2010, radionuclide for 2006, and DBP levels for 2006 through 2010, in violation of 30 TEX. ADMIN. CODE §§ 290.107(e), 290.108(e) and 290.113(e).

8. As evidenced by Finding of Fact No. 3.e., Respondent failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 91520080 for Fiscal Years 2003 through 2011, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(3).
9. As evidenced by Finding of Fact No. 4.a., Respondent failed to provide the results of quarterly nitrate sampling results for the fourth quarter of 2011, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
10. As evidenced by Finding of Fact No. 4.b., Respondent failed to provide the results of triennial sampling for mineral and radionuclide levels for the sampling period from January 1, 2009, through December 31, 2011, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.108(e).
11. As evidenced by Finding of Fact No. 4.c., Respondent failed to provide the results of annual sampling for VOCs and DBP contaminant levels for the 2011 reporting period, in violation of 30 TEX. ADMIN. CODE §§ 290.107(e) and 290.113(e).
12. As evidenced by Finding of Fact No. 4.d., Respondent failed to provide the results of the six year monitoring period for cyanide levels for the reporting period from January 1, 2006, through December 31, 2011, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e).
13. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
14. As evidenced by Findings of Fact Nos. 8 and 9, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
15. As evidenced by Finding of Fact No. 10, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
16. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
17. An administrative penalty in the amount of five thousand three hundred eighty-one dollars (\$5,381.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
18. 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. Respondent is assessed an administrative penalty in the amount of five thousand three hundred eighty-one dollars (\$5,381.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this 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: Virginia Franklin Fuller d/b/a Franklin Water Systems 1 and d/b/a Franklin Water Systems 3; Docket No. 2012-0171-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Respondent shall:

- i. Ensure that all delinquent drinking water chemical analysis results are reported to the TCEQ's Executive Director or demonstrate that a compliance schedule has been established for Franklin Water Systems 3, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Cyanide, Metals, Minerals and Nitrates), 290.107 (Volatile Organic Contaminants and Synthetic Organic Contaminants), 290.108 (Radionuclides) and 290.113 (Disinfectant Byproducts) (Conclusions of Law Nos. 4 through 7 and 9 through 12);
- ii. Implement improvements to Franklin Water Systems 3's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Franklin Water Systems 3's laboratories and reported to the TCEQ's Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later, for Franklin Water Systems 3, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Cyanide, Metals, Minerals and Nitrates), 290.107 (Volatile Organic Contaminants and Synthetic Organic Contaminants), 290.108 (Radionuclides) and 290.113 (Disinfectant Byproducts) (Conclusions of Law Nos. 4 through 7 and 9 through 12); and
- iii. Submit payment for all outstanding fees, interest and late penalties for TCEQ FA Accounts Nos. 91520224 and 91520080 (Conclusions of Law Nos. 3 and 8). The payments shall be sent with the notations "Franklin Water Systems 1, Account No. 91520224" and "Franklin Water Systems 3, Account No. 91520080" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision Nos. 3.a.i. through 3.a.iii.

- c. Within 180 days after the effective date of this Order, Respondent shall either plug Well No. 2 at Franklin Water Systems 1, in accordance with 16 TEX. ADMIN. CODE ch. 76, or test the well to prove that the well is in a non-deteriorated condition, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 2).
- d. Within 195 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.e., below, to demonstrate compliance with Ordering Provision No. 3.c.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications 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:

Gary Shipp, Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3426

and:

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

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facilities' operations referenced in this Order.

6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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

For the Commission

AFFIDAVIT OF RUDY CALDERON

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Rudy Calderon. 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.

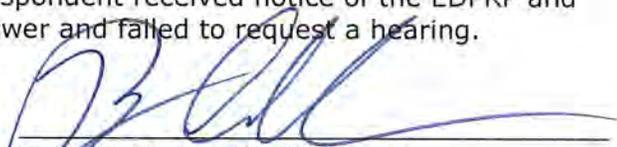
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Virginia Franklin Fuller d/b/a Franklin Water Systems 3" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 29, 2012.

The EDPRP was mailed to Respondent's last known address on June 29, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on July 2, 2012, as evidenced by the signature on the card.

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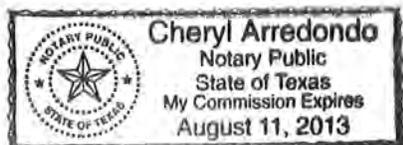
More than 20 days have elapsed since Respondent received notice of the EDPRP and EDFARP. Respondent failed to file an answer and failed to request a hearing.

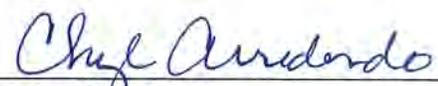


Rudy Calderon, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rudy Calderon, 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 12th day of November, A.D. 2012.





Notary Signature