

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 50884
Forester Estates, LLC d/b/a Cedar Grove Park
RN101188753
Docket No. 2015-1119-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

County Road 128 and County Road 143, off Highway 35 South, Key Map 655J, Brazoria, Brazoria County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$1,564.46 (Acct. No. 90200353; referred for collection) \$1,379.68 (Acct. No. 23005008; referred for collection)
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: April 22, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,973

Total Paid to General Revenue: \$117

Total Due to General Revenue: \$2,856

Payment Plan: 28 payments of \$102 each

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Forester Estates, LLC d/b/a Cedar Grove Park

RN101188753

Docket No. 2015-1119-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 15 - 26, 2015
Date(s) of NOV(s): See Compliance History – 7 related NOVs
Date(s) of NOE(s): June 26, 2015

Violation Information

1. Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director, and failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to collect lead and copper tap samples [30 TEX. ADMIN. CODE §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f)].
2. Failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to provide Disinfectant Level Quarterly Operating Reports [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].
3. Failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to comply with the maximum contaminant level for total coliform [30 TEX. ADMIN. CODE § 290.122(b)(3)(A) and (f)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

N/A

Technical Requirements:

Respondent no longer owns or operates the Facility as of March 10, 2015.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer Filed: N/A
Settlement Date: March 11, 2016

Contact Information

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

TCEQ Enforcement Coordinator: Yuliya Dunaway, Enforcement Division, (210) 403-4077

TCEQ Regional Contact: Bryan Eastham, Houston Regional Office, (713) 767-3500

Respondent Contact: Richard Steffan, Manager, Forester Estates, LLC, 280 Hecklers Road, Livingston, Texas 77351-5401

Respondent's Attorney: Helen Gilbert, Gilbert Wilburn, PLLC, 7000 North MoPac Expressway, Suite 200, Austin, Texas 78731



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	29-Jun-2015	Screening	9-Jul-2015	EPA Due	31-Mar-2015
	PCW	28-Aug-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Forester Estates, LLC dba Cedar Grove Park		
Reg. Ent. Ref. No.	RN101188753		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	50884	No. of Violations	3
Docket No.	2015-1119-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		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	\$800
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	37.0% Enhancement	Subtotals 2, 3, & 7	\$296
Notes	Enhancement for seven NOV's with the same/similar violations and one dissimilar NOV.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$13	*Capped at the Total EB \$ Amount	
Estimated Cost of Compliance	\$175		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,096
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OTHER FACTORS AS JUSTICE MAY REQUIRE	171.3%	Adjustment	\$1,877
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 1.		
	Final Penalty Amount	\$2,973	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,973
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.		
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PAYABLE PENALTY	\$2,973
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Screening Date 9-Jul-2015

Docket No. 2015-1119-PWS-E

PCW

Respondent Forester Estates, LLC dba Cedar Grove Park

Policy Revision 4 (April 2014)

Case ID No. 50884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101188753

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

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>)	7	35%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments 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) 37%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for seven NOVs with the same/similar violations and one dissimilar NOV.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 37%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 37%

Screening Date 9-Jul-2015 **Docket No.** 2015-1119-PWS-E **PCW**
Respondent Forester Estates, LLC dba Cedar Grove Park *Policy Revision 4 (April 2014)*
Case ID No. 50884 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101188753
Media [Statute] Public Water Supply
Enf. Coordinator Yuliya Dunaway

Violation Number

Rule Cite(s)

30 Tex. Admin. Code §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f)

Violation Description

Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director for the 2011, 2013 and 2014 monitoring periods and failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to collect lead and copper tap samples for the 2014 monitoring period.

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" value="x"/>	<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

Failure to collect lead and copper samples and provide public notification could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

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" value="x"/>
single event	<input type="text"/>

Violation Base Penalty

Three annual events are recommended.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/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 Forester Estates, LLC dba Cedar Grove Park
Case ID No. 50884
Reg. Ent. Reference No. RN101188753
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)				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)	\$25	1-Jan-2015	10-Mar-2015	0.19	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to ensure that the required public notification regarding the failure to collect lead and copper tap samples for the 2014 monitoring period (\$25 per notification x one missed notification) is provided to persons served by the Facility and a copy of the notification is provided to the Executive Director, calculated from the due date of the notification to the date compliance was recognized.

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	\$600	1-Jan-2011	31-Dec-2011	1.00	\$30	\$598	\$628
Inspection/Reporting/Sampling	\$600	1-Jan-2013	31-Dec-2014	2.00	\$60	\$1,198	\$1,258
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

The one-time avoided costs include the estimated amount to collect and have all lead and copper samples analyzed (\$30 per sample x 20 missed samples per monitoring period, annualized), calculated for the monitoring periods in which samples were required.

Approx. Cost of Compliance

\$1,225

TOTAL

\$1,887

Screening Date 9-Jul-2015

Docket No. 2015-1119-PWS-E

PCW

Respondent Forester Estates, LLC dba Cedar Grove Park

Policy Revision 4 (April 2014)

Case ID No. 50884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101188753

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to provide Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director for the first quarter of 2013 through the third quarter of 2013, and the first quarter of 2014 through the third quarter of 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 6

540 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$300

Six single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$1,115

This violation Final Assessed Penalty (adjusted for limits) \$1,115

Economic Benefit Worksheet

Respondent Forester Estates, LLC dba Cedar Grove Park
Case ID No. 50884
Reg. Ent. Reference No. RN101188753
Media Violation No. Public Water Supply
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$150	10-Jul-2013	10-Mar-2015	1.67	\$12	n/a	\$12

Notes for DELAYED costs

The delayed costs include the estimated amount to ensure that all delinquent public notifications regarding the failure to provide DLQORs to the Executive Director (\$25 per notification x six missed notifications) are provided to persons served by the Facility and a copy of the notifications are provided to the Executive Director, calculated from the due date of the first notification to the ownership change date and the Facility has returned to 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 \$150

TOTAL \$12

Screening Date 9-Jul-2015

Docket No. 2015-1119-PWS-E

PCW

Respondent Forester Estates, LLC dba Cedar Grove Park

Policy Revision 4 (April 2014)

Case ID No. 50884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101188753

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.122(b)(3)(A) and (f)

Violation Description

Failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to comply with the maximum contaminant level ("MCL") for total coliform during the month of October 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$186

This violation Final Assessed Penalty (adjusted for limits) \$186

Economic Benefit Worksheet

Respondent Forester Estates, LLC dba Cedar Grove Park
Case ID No. 50884
Reg. Ent. Reference No. RN101188753
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)	\$25	29-Nov-2014	10-Mar-2015	0.28	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed costs include the estimated amount to ensure that the required public notification regarding the failure to comply with the MCL for total coliform during the month of October 2014 (\$25 per notification x one missed notification) is provided to persons served by the Facility and a copy of the notification is provided to the Executive Director, calculated from the due date of the notification to the ownership change date and the Facility has returned to 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	\$25	TOTAL	\$0
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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603862244, RN101188753, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN603862244, Forester Estates, LLC **Classification:** SATISFACTORY **Rating:** 2.67

Regulated Entity: RN101188753, CEDAR GROVE PARK **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: CR 128 & CR 143 OFF HWY 35 SOUTH (KEY MAP 655J) BRAZORIA, TX, BRAZORIA COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0200353

UTILITIES REGISTRATION 20403

UTILITIES REGISTRATION 13088

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: July 8, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 08, 2010 to July 08, 2015

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

Name: Yuliya Dunaway

Phone: (210) 403-4077

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 July 29, 2011 (914672)

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

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

1 Date: 09/11/2014

(1259877)

CN603862244

Self Report? NO Classification: Moderate

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

30 TAC Chapter 290, SubChapter F 290.122(f)

Description: DLQOR MR PN 3Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the third quarter of 2013.

2 Date: 09/15/2014

(1152289)

CN603862244

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to develop and maintain an up to date system monitoring plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failure by the regulated entity to verify the accuracy of the manual disinfectant residual analyzer at least once every 90 days by calibrating it with chlorine solutions of a known concentration..

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to compile and maintain, a current, and thorough plant operations manual for operator review and reference.

Self Report? NO Classification: Moderate

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

Description: Failure to make available at the time of investigation, sanitary control easements for Well No. 1 or Executive Director approval for a substitute authorized in §290.41(c)(1)(F)(iv).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)
30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)
Description: Failure to conduct an inspection of the ground storage tank at least annually, to determine that the vents are in place and properly screened, the roof hatches closed and locked, flap valves and gaskets provide adequate protection against insects, rodents, and other vermin, and that the interior and exterior coating systems are continuing to provide adequate protection to all metal surfaces, and that the tank remains in a watertight condition.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)
Description: Failure by the regulated entity to calibrate the well meter as required by 30 TAC 290.41(c)(3)(N) according to the manufacturer's specifications at least once every three years.

3 Date: 10/13/2014 (1259877) CN603862244

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 1Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the first quarter of 2014.

4 Date: 11/10/2014 (1259877) CN603862244

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(B)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)
Description: LCR RD MR YR2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the annual reduced monitoring period from 01/01/2014 to 12/31/2014 within the required timeline.

5 Date: 02/05/2015 (1259877) CN603862244

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 2Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the second quarter of 2014.

6 Date: 02/20/2015 (1259877) CN603862244

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: OCT/2014 TCR MCL PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a maximum contaminant level violation during the month of 10/2014.

7 Date: 03/16/2015 (1259877) CN603862244

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: LCR RD MR PN YR2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a distribution lead and copper reduced monitoring and reporting violation for the annual reduced monitoring period from 01/01/2014 to 12/31/2014.

8 Date: 04/30/2015 (1259877) CN603862244

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 3Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the third quarter of 2014.

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
FORESTER ESTATES, LLC
DBA CEDAR GROVE PARK;
RN101188753**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2015-1119-PWS-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Forester Estates, LLC d/b/a Cedar Grove Park ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE § 341.049 and ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Helen Gilbert of the law firm Gilbert Wilburn, PLLC, presented this Order to the Commission.

Respondent understands it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, receive notice of an evidentiary hearing, and a right to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

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

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

FINDINGS OF FACT

1. Respondent owned and operated a public water system located at the intersection of County Road 128 and County Road 143 off Highway 35 South (Key Map 655J) in Brazoria, Brazoria County, Texas (the "Facility"). The Facility provided water for human consumption, had approximately 145 service connections, and served at least 25 people per day for at least 60 days per year. As such, the Facility was a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(69).
2. During a record review conducted on June 15, 2015, an investigator documented that Respondent:
 - a. Failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director for the 2011, 2013, and 2014 monitoring periods, and failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to collect lead and copper tap samples for the 2014 monitoring period;

- b. Failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to provide Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director for the first quarter of 2013 through the third quarter of 2013, and the first quarter of 2014 through the third quarter of 2014; and
 - c. Failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to comply with the maximum contaminant level ("MCL") for total coliform during the month of October 2014.
3. The Executive Director recognizes Respondent no longer owns or operates the Facility as of March 10, 2015.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 361 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect lead and copper tap samples at the required 20 sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director, and failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to collect lead and copper tap samples, in violation of 30 TEX. ADMIN. CODE §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to provide DLQORs to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide public notification and provide a copy of the notification to the Executive Director regarding the failure to comply with the MCL for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.122(b)(3)(A) and (f).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of two thousand nine hundred seventy-three dollars (\$2,973.00) is assessed by the Commission in settlement of the violations set forth in this Order. Respondent paid one hundred seventeen dollars (\$117.00) of the penalty. The remaining amount of two thousand eight hundred fifty-six dollars (\$2,856.00) shall be paid in twenty-eight (28) monthly payments of one hundred two dollars (\$102.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 6 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only 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 violations not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: Forester Estates, LLC d/b/a Cedar Grove Park, Docket No. 2015-1119-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
4. 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.
5. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within the TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by the TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines Respondent has not complied with one or more of the terms or conditions in this Order.
6. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
7. 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable.

Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director



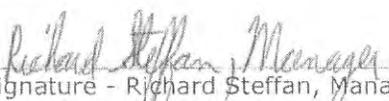
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

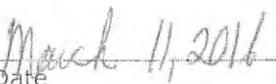
I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

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

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



Signature - Richard Steffan, Manager
Forester Estates, LLC
280 Hecklers Road
Livingston, Texas 77351-5401



Date

If mailing address has changed, please check this box and provide the new address below:
