

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48327
Kyle Freeman DBA Lamplighter Mobile Home Park
RN106672165
Docket No. 2014-0316-PWS-E

Order Type:

Default Order

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1525 South Broadway Street, Joshua, Johnson County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions: 2014-0520-MLM-E (EDPRP filed October 7, 2014);
2014-1008-PWS-E (Referred to Litigation October 3, 2014)
Past-Due Penalties: None
Past-Due Fees: \$136.40 (Account No. 91260136)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: October 10, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,920

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,920

Compliance History Classifications:

Person/CN –N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 17, 2014; February 27, 2014
Date(s) of NOV(s): See Compliance History – 8 related NOV's
Date(s) of NOE(s): April 1, 2014

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to post public notification of the failure [TEX. HEALTH & SAFETY CODE § 341.033(d), and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A)].
2. Failed to collect the initial six-month lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director [30 TEX. ADMIN. CODE § 290.117(c)(2)(A)(i) and (i)(1)].
3. Failed to pay all annual Public Health Service fees and associated late fees [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days:
 - a. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91260136;
 - b. Begin complying with applicable coliform monitoring requirements by collecting routine coliform monitoring samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
 - c. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, including providing public notification regarding the failure to conduct routine coliform monitoring for the months of June 2013 through September 2013; and
 - d. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period.
2. Within 90 days, begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples analyzed at an approved laboratory and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period. This requirement will be satisfied upon two consecutive compliant monitoring periods.
3. Submit written certification to demonstrate compliance:
 - a. Within 45 days for Technical Requirements Nos. 1.a., 1.c., and 1.d.;
 - b. Within 225 days for Technical Requirement No. 1.b.; and
 - c. Within 470 days for Technical Requirement No. 2.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48327
Kyle Freeman DBA Lamplighter Mobile Home Park
RN106672165
Docket No. 2014-0316-PWS-E

Litigation Information

Date Petition(s) Filed: July 2, 2014; July 28, 2014
Date Green Card(s) Signed: Unclaimed; Unclaimed
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Michael Vitris, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Margarita Dennis, Enforcement Division, (817) 588-5892
TCEQ Regional Contact: Sam Barrett, Ft. Worth Regional Office, (817) 588-5800
Respondent Contact: Kyle Freeman, Owner, Lamplighter Mobile Home Park, P.O. Box 391,
Joshua, Texas 76058
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	3-Feb-2014	Screening	24-Feb-2014	EPA Due	31-Mar-2014
	PCW	5-Sep-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Kyle Freeman dba Lamplighter Mobile Home Park		
Reg. Ent. Ref. No.	RN106672165		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	48327	No. of Violations	3
Docket No.	2014-0316-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Margarita Dennis
		EC's Team	Enforcement Team 7
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

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 24-Feb-2014

Docket No. 2014-0316-PWS-E

PCW

Respondent Kyle Freeman dba Lamplighter Mobile Home Park

Policy Revision 3 (September 2011)

Case ID No. 48327

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106672165

Media [Statute] Public Water Supply

Enf. Coordinator Margarita Dennis

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>)	8	40%
	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 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 eight NOVs with same/similar violations and one NOV with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 42%

Screening Date 24-Feb-2014 **Docket No.** 2014-0316-PWS-E **PCW**
Respondent Kyle Freeman dba Lamplighter Mobile Home Park *Policy Revision 3 (September 2011)*
Case ID No. 48327 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN106672165
Media [Statute] Public Water Supply
Enf. Coordinator Margarita Dennis

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of June 2013 through November 2013 and failed to post public notification of the failure to collect routine distribution water samples for the months of June 2013 through September 2013.

Base Penalty \$1,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Failure to collect routine coliform samples and provide public notification could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 6 182 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$900

Six monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$272

Violation Final Penalty Total \$1,646

This violation Final Assessed Penalty (adjusted for limits) \$1,646

Economic Benefit Worksheet

Respondent Kyle Freeman dba Lamplighter Mobile Home Park
Case ID No. 48327
Reg. Ent. Reference No. RN106672165
Media Violation No. 1

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	\$100	17-Jan-2014	31-Oct-2014	0.79	\$4	n/a	\$4
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 implement improvements to the Facility's process, procedures, guidance, training and/or oversight to ensure that public notice is posted and reported to the Executive Director, calculated from the record review to 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]	\$150	1-Jun-2013	30-Nov-2013	1.42	\$11	\$150	\$161
Other (as needed)	\$100	1-Jul-2013	31-Dec-2013	1.42	\$7	\$100	\$107

Notes for AVOIDED costs The avoided cost includes the estimated amount to conduct routine coliform sampling (\$25 x 6 missed samples), calculated for the months sampling was not conducted. The other avoided cost includes the estimated amount to provide public notifications (\$25 x 4 missed notices), calculated for the period public notification was required).

Approx. Cost of Compliance \$350

TOTAL \$272

Screening Date 24-Feb-2014

Docket No. 2014-0316-PWS-E

PCW

Respondent Kyle Freeman dba Lamplighter Mobile Home Park

Policy Revision 3 (September 2011)

Case ID No. 48327

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106672165

Media [Statute] Public Water Supply

Enf. Coordinator Margarita Dennis

Violation Number 2

Rule Cite(s)

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

Violation Description

Failed to collect the initial six-month lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory and submit the results to the Executive Director for the July 1, 2013 through December 31, 2013 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

183 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$150

One semiannual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$274

This violation Final Assessed Penalty (adjusted for limits) \$274

Economic Benefit Worksheet

Respondent Kyle Freeman dba Lamplighter Mobile Home Park
Case ID No. 48327
Reg. Ent. Reference No. RN106672165
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	\$100	17-Jan-2014	31-Oct-2014	0.79	\$4	n/a	\$4
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 delay cost includes the estimated amount to implement improvements to the Facility's process, procedures, guidance, training and/or oversight to ensure that future lead and copper samples are collected by the Facility's personnel, analyzed by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to 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]	\$150	1-Jul-2013	31-Dec-2013	1.42	\$11	\$150	\$161
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 The avoided cost includes the estimated amount to collect and have analyzed all lead and copper samples (\$30 per sample X 5 samples), calculated for the period in which samples were required.

Approx. Cost of Compliance \$250

TOTAL \$165

Screening Date 24-Feb-2014

Docket No. 2014-0316-PWS-E

PCW

Respondent Kyle Freeman dba Lamplighter Mobile Home Park

Policy Revision 3 (September 2011)

Case ID No. 48327

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106672165

Media [Statute] Public Water Supply

Enf. Coordinator Margarita Dennis

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description

Failed to pay all annual Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91260136.

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

Percent 0.0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Kyle Freeman dba Lamplighter Mobile Home Park
Case ID No. 48327
Reg. Ent. Reference No. RN106672165
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	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 \$0

TOTAL \$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN604299396, RN106672165, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN604299396, Kyle Freeman

Classification: N/A

Rating: N/A

Regulated Entity: RN106672165, Lamplighter Mobile Home Park

Classification: N/A

Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: 1525 S BROADWAY ST, JOSHUA, TX 76058-5139, JOHNSON COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1260136

Compliance History Period: September 01, 2008 to August 31, 2013

Rating Year: 2013

Rating Date: 09/01/2013

Date Compliance History Report Prepared: February 24, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 24, 2009 to February 24, 2014

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

Name: Margarita Dennis

Phone: (817) 588-5892

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

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

- 1 Date: 05/06/2013 (1086044) CN604299396**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.39(m)
Description: Failure to provide written notification to the commission of the startup of a new public water supply system. On April 18, 2013, Public Water System ID number 1260136 was issued to Lamplighter Mobile Home Park.
- 2 Date: 08/08/2013 (1145145) CN604299396**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 06/2013- Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 3 Date: 09/20/2013 (1145145) CN604299396**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 07/2013- Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 4 Date: 10/14/2013 (1145145) CN604299396**
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 08/2013- Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

- 5 Date: 10/21/2013 (1145145) CN604299396**
 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: JUNE/2013 TCR Routine MR 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 failing to conduct routine coliform monitoring in 06/2013.
- 6 Date: 11/07/2013 (1145145) CN604299396**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 09/2013- Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 7 Date: 11/20/2013 (1145145) CN604299396**
 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: JULY/2013 TCR Routine MR 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 failing to conduct routine coliform monitoring in 07/2013.
- 8 Date: 12/12/2013 (1145145) CN604299396**
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 10/2013- Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.
- 9 Date: 12/18/2013 (1145145) CN604299396**
 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: AUG/2013 TCR Routine MR 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 failing to conduct routine coliform monitoring in 08/2013.

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
KYLE FREEMAN DBA
LAMPLIGHTER MOBILE HOME PARK;
RN106672165**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2014-0316-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE 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 Kyle Freeman DBA Lamplighter Mobile Home Park ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns a public water system located at 1525 South Broadway Street in Joshua, Johnson County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 23 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on January 17, 2014, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of June 2013 through November 2013 and failed to post public notification of the failure to collect routine distribution water samples for the months of June 2013 through September 2013; and
 - b. Failed to collect the initial six-month lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director for the July 1, 2013 through December 31, 2013 monitoring period.
3. During a record review conducted on February 27, 2014, a TCEQ Central Office investigator documented that Respondent failed to pay all annual Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91260136.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Kyle Freeman DBA Lamplighter Mobile Home Park" (the "EDPRP") in the TCEQ Chief Clerk's office on July 2, 2014.
5. The EDPRP was mailed to Respondent's last known address on July 2, 2014, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on July 28, 2014.
7. By letter dated July 28, 2014, 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. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. 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 TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to collect routine distribution water samples for coliform analysis and failed to post public notification of the failure, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d), and 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect the initial six-month lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(A)(i) and (i)(1).
4. As evidenced by Finding of Fact No. 3., Respondent failed to pay all annual Public Health Service fees and associated late fees, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
5. As evidenced by Findings of Fact Nos. 4 through 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(c)(2).
6. As evidenced by Finding of Fact No. 8, 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.
7. 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 TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of one thousand nine hundred twenty dollars (\$1,920.00) 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.
9. 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 one thousand nine hundred twenty dollars (\$1,920.00) 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: Kyle Freeman DBA Lamplighter Mobile Home Park; Docket No. 2014-0316-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. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91260136. The payment shall be sent with the notation "Kyle Freeman DBA Lamplighter Mobile Home Park, Financial Administration Account No. 91260136" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform monitoring samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
 - iii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, including providing public notification regarding the failure to conduct routine coliform monitoring for the months of June 2013 through September 2013, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iv. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117.

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i., 3.a.iii., and 3.a.iv.
- c. Within 90 days after the effective date of this Order, Respondent shall begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples analyzed at an approved laboratory and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon two consecutive compliant monitoring periods.
- d. Within 225 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provision No. 3.a.ii.
- e. Within 470 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provision No. 3.c.
- f. 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:

Section Manager, Public Drinking Water Section
Water Supply Division, 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 Facility 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. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 3.f., above.
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 MICHAEL VITRIS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Michael Vitris. 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 Kyle Freeman DBA Lamplighter Mobile Home Park" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 2, 2014.

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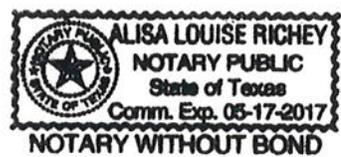
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Michael Vitris, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Michael Vitris, 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 8 day of September, A.D. 2014.


Notary Signature