

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 60401
FOOTHILLS MOBILE HOME RANCH, INC.
RN102687563
Docket No. 2021-0276-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:

402 July Lane, near Boerne, Kendall County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions:	Yes, 2022-0197-PWS-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:

December 30, 2022

Comments Received:

None

Penalty Information

Total Penalty Assessed: \$2,243

**Amount Deferred for
Naturally Occurring Constituent:** \$1,125

Total Paid to General Revenue: \$1,118

Total Due to General Revenue: \$0

Compliance History Classifications:

Person/CN - Not Applicable
Site/RN - Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: January 25, 2021 through February 5, 2021

Date(s) of NOV(s): See Compliance History

Date(s) of NOE(s): February 5, 2021

Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") of 4.0 milligrams per liter for fluoride based on the running annual average [TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.106(f)(3)(C)].
2. Failed to submit a Disinfection Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the first through third quarters of 2020 [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By March 5, 2021, Respondent submitted DLQORs for the first through third quarters of 2020.

Technical Requirements:

1. Within 180 days submit an acceptable written plan, including a proposed schedule and any applicable planning materials, that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance with the MCL for fluoride within 1,095 days.
2. Within 195 days submit written certification, to demonstrate compliance with Technical Requirement No. 1.
3. Within 365 days submit progress reports. These reports shall include information regarding actions taken to provide water which meets the MCL for fluoride.
4. Within 1,095 days return, to compliance with the MCL for fluoride based on a running annual average.
5. Within 1,110 days submit written certification, to demonstrate compliance with Technical Requirement No. 4.

Litigation Information

Settlement Date: November 10, 2022

Contact Information

TCEQ Attorneys: Benjamin Pence, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Miles Wehner, Enforcement Division, (512) 239-2813

TCEQ Regional Contact: Joy Thurston-Cook, San Antonio Regional Office, (210) 490-3096

Respondent Contact: Maggi Knupp, FOOTHILLS MOBILE HOME RANCH, INC., 99 September Lane,
Boerne, Texas 78006

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	8-Feb-2021	Screening	10-Feb-2021	EPA Due	31-Mar-2021
	PCW	11-Feb-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	FOOTHILLS MOBILE HOME RANCH, INC.
Reg. Ent. Ref. No.	RN102687563
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60401	No. of Violations	1
Docket No.	2021-0276-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miles Wehner
		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$750
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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	50.0%	Adjustment	Subtotals 2, 3, & 7	\$375
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Notes: Enhancement for five NOV's with the same/similar violations and one agreed order without a denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$9,520
 Estimated Cost of Compliance: \$40,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,125
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DEFERRAL	100.0%	Reduction	Adjustment	-\$1,125
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: The Executive Director Recommends a conditional deferral for naturally occurring constituents.

PAYABLE PENALTY	\$0
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Screening Date	10-Feb-2021	Docket No.	2021-0276-PWS-E	PCW
Respondent	FOOTHILLS MOBILE HOME RANCH, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60401			<i>PCW Revision September 1, 2019</i>
Reg. Ent. Reference No.	RN102687563			
Media	Public Water Supply			
Enf. Coordinator	Miles Wehner			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	5	25%
	Other written NOVs	0	0%
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 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%
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) 50%

>> 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 five NOVs with the same/similar violations and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 50%

Screening Date 10-Feb-2021 **Docket No.** 2021-0276-PWS-E **PCW**
Respondent FOOTHILLS MOBILE HOME RANCH, INC. *Policy Revision 4 (April 2014)*
Case ID No. 60401 *PCW Revision September 1, 2019*
Reg. Ent. Reference No. RN102687563
Media Public Water Supply
Enf. Coordinator Miles Wehner

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(3)(C) and Tex. Health & Safety Code § 341.0315(c)
Violation Description Failed to comply with the maximum contaminant level ("MCL") of 4.0 milligrams per liter ("mg/L") for fluoride based on the running annual average. Specifically, the running annual average concentrations for fluoride were 4.2 mg/L for the third quarter of 2020 and 4.1 mg/L for the fourth quarter of 2020.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Exceeding the MCL for fluoride caused persons served by the Facility to be exposed to a significant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events 1 183 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$750

One annual 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	

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$9,520 **Violation Final Penalty Total** \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

Economic Benefit Worksheet

Respondent FOOTHILLS MOBILE HOME RANCH, INC.
Case ID No. 60401
Reg. Ent. Reference No. RN102687563
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	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40,000	30-Sep-2020	23-Feb-2024	3.40	\$453	\$9,067	\$9,520
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 investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for fluoride, calculated from the last day of the first quarter of non-compliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$40,000

TOTAL \$9,520



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision September 1, 2019

DATES	Assigned	8-Feb-2021	Screening	10-Feb-2021	EPA Due	31-Mar-2021
	PCW	11-Feb-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	FOOTHILLS MOBILE HOME RANCH, INC.
Reg. Ent. Ref. No.	RN102687563
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60401	No. of Violations	1
Docket No.	2021-0276-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miles Wehner
		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$750
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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	50.0% Adjustment	Subtotals 2, 3, & 7	\$375
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Notes: Enhancement for five NOV's with the same/similar violations and one agreed order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$75
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$69
 Estimated Cost of Compliance: \$212
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,050
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OTHER FACTORS AS JUSTICE MAY REQUIRE	6.5% Adjustment	\$68
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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	\$1,118
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,118
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$1,118
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Screening Date	10-Feb-2021	Docket No.	2021-0276-PWS-E	PCW
Respondent	FOOTHILLS MOBILE HOME RANCH, INC.			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60401			<i>PCW Revision September 1, 2019</i>
Reg. Ent. Reference No.	RN102687563			
Media	Public Water Supply			
Enf. Coordinator	Miles Wehner			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	5	25%
	Other written NOVs	0	0%
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 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%
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) 50%

>> 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 five NOVs with the same/similar violations and one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 50%

Screening Date 10-Feb-2021 **Docket No.** 2021-0276-PWS-E **PCW**
Respondent FOOTHILLS MOBILE HOME RANCH, INC. *Policy Revision 4 (April 2014)*
Case ID No. 60401 *PCW Revision September 1, 2019*
Reg. Ent. Reference No. RN102687563
Media Public Water Supply
Enf. Coordinator Miles Wehner

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)
Violation Description Failed to submit a Disinfection Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the first through third quarters of 2020.

Base Penalty \$5,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0.0%
Potential					

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirements were not met.					

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 3 306 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

Three single events are recommended.

Good Faith Efforts to Comply 10.0% Reduction \$75

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

Notes The Respondent achieved compliance on March 5, 2021.

Violation Subtotal \$675

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$69 **Violation Final Penalty Total** \$1,118

This violation Final Assessed Penalty (adjusted for limits) \$1,118

Economic Benefit Worksheet

Respondent FOOTHILLS MOBILE HOME RANCH, INC.
Case ID No. 60401
Reg. Ent. Reference No. RN102687563
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	Costs Saved	EB Amount
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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	\$45	25-Jan-2021	5-Mar-2021	0.11	\$0	n/a	\$0
Training/Sampling	\$100	25-Jan-2021	5-Mar-2021	0.11	\$1	n/a	\$1
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 record keeping system and training/sampling delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all DLQORs are submitted to the TCEQ in a timely manner, calculated from the record review date to the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs	\$67	10-Oct-2020	10-Feb-2021	0.34	\$1	\$67	\$68
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and submit a DLQOR (\$22 per DLQOR x three reports + \$1 of interest that began accruing from the due date of the earliest missed report), calculated from the date the report was due for the third quarter of 2020 to the date of screening.

Approx. Cost of Compliance

\$212

TOTAL

\$69



Compliance History Report

Compliance History Report for CN601359664, RN102687563, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN601359664, Foothills Mobile Home Ranch, Inc. **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN102687563, FOOTHILLS MOBILE HOME RANCH **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: 402 JULY LANE NEAR BOERNE, KENDALL COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1300008

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: June 14, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 14, 2016 to June 14, 2021

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

Name: Miles Wehner

Phone: (512) 239-2813

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

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

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

- 1 Effective Date: 07/01/2019 ADMINORDER 2018-0936-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: FLU MCL 1Q2018 - During the first quarter of 2018 the system violated the maximum contaminant level for Fluoride with a RAA of 4.7 mg/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: FLU MCL 4Q2017 - During the fourth quarter of 2017 the system violated the maximum contaminant level for Fluoride with a RAA of 4.6 mg/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: FLU MCL 2Q2018 - During the second quarter of 2018 the system violated the maximum contaminant level for Fluoride with a RAA of 4.7 mg/L.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
FOOTHILLS MOBILE HOME RANCH, INC.;
RN102687563

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2021-0276-PWS-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding FOOTHILLS MOBILE HOME RANCH, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

Respondent understands that 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 owns and operates a public water system ("PWS") located at 402 July Lane near Boerne, Kendall County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 105 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a PWS as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review conducted on January 25, 2021, through February 5, 2021, an investigator documented that Respondent:
 - a. Failed to comply with the maximum contaminant level ("MCL") of 4.0 milligrams per liter ("mg/L") for fluoride based on the running annual average. Specifically, the running annual average concentrations of fluoride were 4.2 mg/L for the third quarter of 2020 and 4.1 mg/L for the fourth quarter of 2020; and
 - b. Failed to submit a Disinfection Level Quarterly Operating Report ("DLQOR") to the Executive Director by the tenth day of the month following the end of each quarter for the first through third quarters of 2020.
3. The Executive Director recognizes that, by March 5, 2021, Respondent submitted DLQORs for the first through third quarters of 2020.

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. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with the MCL of 4.0 mg/L for fluoride based on the running annual average, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c) and 30 TEX. ADMIN. CODE § 290.106(f)(3)(C).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit a DLQOR to the Executive Director by the tenth day of the month following the end of each quarter for the first through third quarters of 2020, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), TCEQ 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.
5. An administrative penalty in the amount of two thousand two hundred forty-three dollars (\$2,243.00) 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(b). Respondent paid one thousand one hundred eighteen dollars (\$1,118.00) of the penalty. The TCEQ has determined that Conclusion of Law No. 2 of this Order qualifies for 100% deferral. Therefore, the remaining amount of one thousand one hundred twenty-five dollars (\$1,125.00) is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, the Executive Director may demand payment of all or part of the conditionally deferred penalty.

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. 5 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 which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Order, submit to the addresses listed in Ordering Provision No. 2.f. an acceptable written plan, including a proposed schedule and any applicable planning materials, that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance with the MCL for fluoride within 1,095 days after the effective date of this Order.
 - b. Within 195 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 365 days after the effective date of this Order and on a semi-annual basis thereafter for the duration of this Order, submit progress reports to the addresses listed in Ordering Provision No. 2.f., below. These reports shall include information regarding actions taken to provide water which meets the MCL for fluoride.

- d. Within 1,095 days after the effective date of this Order, return to compliance with the MCL for fluoride based on a running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.106.
- e. Within 1,110 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.f., to demonstrate compliance with Ordering Provision No. 2.d.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by 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.
5. 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 Enforcement Division at the address listed above.
6. 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 TCEQ’s jurisdiction, or of a rule adopted or an order or permit issued by 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 that Respondent has not complied with one or more of the terms or conditions in this Order.

7. 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.
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. 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.
10. 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

1/23/23

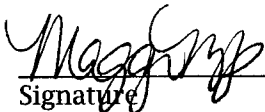
Date

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
- 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

11/10/2022
Date

Maggi M Knupp

Name (Printed or typed)
Authorized representative of
FOOTHILLS MOBILE HOME RANCH, INC.

Secretary / Operations

Title

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