Executive Summary – Enforcement Matter – Case No. 60782 City of Seminole RN101376978 Docket No. 2021-0663-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Seminole PWS, 101 East Avenue A, Seminole, Gaines County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 10, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,675

Total Paid to General Revenue: \$2,675 **Total Due to General Revenue:** \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 3, 2021 through May 14, 2021

Date(s) of NOE(s): May 14, 2021

Executive Summary – Enforcement Matter – Case No. 60782 City of Seminole RN101376978 Docket No. 2021-0663-PWS-E

Violation Information

Failed to comply with the maximum contaminant level of 0.010 milligrams per liter for arsenic based on a running annual average [30 Tex. Admin. Code § 290.106(f)(3)(C) and Tex. Health & Safety Code § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 365 days, return to compliance with the maximum contaminant level for arsenic based on the running annual average; and
- b. Within 380 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEO Enforcement Coordinator: America Ruiz, Enforcement Division,

Enforcement Team 2, MC 219, (512) 239-2601; Michael Parrish, Enforcement Division,

MC 219, (512) 239-2548

Respondent: The Honorable John Belcher, Mayor, City of Seminole, 302 South Main

Street, Seminole, Texas 79360 **Respondent's Attorney:** N/A



DEFERRAL

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicated percentage.

Penalty Calculation Worksheet (PCW)

Adjustment

0.0%

Reduction

\$0

\$2,675

STATION ON THE NEW YORK	Policy Re	vision 5 (January 28,	2021)			()	PCW Revisio	n February 11, 2021
DATES	Assigned	17-May-2021						
	PCW	2-Jun-2021	Screening	20-May-2021	EPA Due 30	0-Sep-2021		
RESPO		TY INFORMATI						
_	Respondent	City of Seminole						
	Ent. Ref. No.							
Facilit	ty/Site Region	7-Midiand			Major/Mii	nor Source	Major	
ACE T	NFORMATION							
	f./Case ID No.	60782			No of	Violations	1	
		2021-0663-PWS	-F			Order Type		
Med		Public Water Sup			Government/			
	Multi-Media		F-7		-		America Ruiz	
							Enforcement Tea	m 2
Adn	nin. Penalty \$ L	imit Minimum	\$50	Maximum	\$5,000			
			Donalt	v Calcula	tion Soctio	<u> </u>		
TOT A I	DACE DENA	LTY (Sum of		•	tion Sectio	11	Cubtotal 1	\$2,500
IUIAI	L DASE PENA	LIT (Suill OI	violation	base penan	lies)		Subtotal 1	\$2,500
ADJUS	STMENTS (+	/-) TO SUBTO	OTAL 1					
	Subtotals 2-7 are ob	tained by multiplying	the Total Base I	Penalty (Subtotal 1	.) by the indicated pe			
	Compliance His	story		7.0%	Adjustment	Subto	tals 2, 3, & 7	\$175
		Enhancement f	or three NOV	s with the same	e/similar violation	ns and one		
	Notes				ion for High Perfo			
				Classification.	J			
	Culpability	No		0.0%	Enhancement		Subtotal 4	\$0
	. ,	•						·
	Notes	The Re	spondent doe	s not meet the	culpability criteri	ia.		
	0 15 11 50							
	Good Faith Eff	ort to Comply T	otal Adjustn	nents			Subtotal 5	\$0
	Economic Bene	efit		0.0%	Enhancement*		Subtotal 6	\$0
		Total EB Amounts	\$726	*Capped	d at the Total EB \$ Ar	mount		
	Estimated	Cost of Compliance	\$5,000					
CLIM C	NE CURTOTAL					_		#2.675
SUM C	OF SUBTOTAL	LS 1-/				F	inal Subtotal	\$2,675
ATILE	D FACTORS A	C THETTER N	IAV DEGILI	DE I	0.00/			<u> </u>
DIHE	K FACIORS A	AS JUSTICE M Subtotal by the indi-	IAY KEQUI	.KE	0.0%		Adjustment	\$0
couces (n chilances the Hild	Subtotal by the mul	Lateu percentage					
	Notes							
	140003							
						Final Pen	alty Amount	\$2,675
						a o		7=,0,0
STATL	JTORY LIMIT	ADJUSTMEN	IT			Final Asses	ssed Penalty	\$2,675

No deferral is recommended for Findings Orders.

Screening Date 20-May-2021
Respondent City of Seminole

Case ID No. 60782

Reg. Ent. Reference No. RN101376978

Media Public Water Supply

Enf. Coordinator America Ruiz

Compliance History Worksheet

		Compliance History Worksheet						
> Co	Component	ory <i>Site</i> Enhancement (Subtotal 2) Number of	Number	Adjust.				
	NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%				
		Other written NOVs	1	2%				
		Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%				
	Orders	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	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%				
	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%				
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%				
	Emissions	Chronic excessive emissions events (number of events)	0	0%				
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%				
	Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%				
		Environmental management systems in place for one year or more	No	0%				
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%				
	Other	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 Per	centage (Sub	total 2)	17%			
Re	peat Violator	(Subtotal 3)						
	N/A Adjustment Percentage (Subtotal 3) 0%							
Compliance History Person Classification (Subtotal 7)								
High Performer Adjustment Percentage (Subtotal 7) -10%								
> Compliance History Summary								
Compliance History Notes Enhancement for three NOVs with the same/similar violations and one NOV with a dissimilar violation. Reduction for High Performer Classification.								
Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 7%								
Fina	al Compliance	History Adjustment		-+ 4000¢ T	70/			
Final Adjustment Percentage *capped at 100% 7%								

	Screen	ing Date	20-May-2021		Doc	ket No. 2021-0663-PWS-E		PCW
			City of Seminole	:			Policy R	evision 5 (January 28, 2021)
		e ID No.					PCV	V Revision February 11, 2021
Reg.	Ent. Refer		RN101376978					
			Public Water Sup	oply				
			America Ruiz					
	Violatio	n Number	1					
Rule Cite(s)			30 Tex. Admin. Code § 290.106(f)(3)(C) and Tex. Health & Safety Code § $341.0315(c)$					
			Failed to samply	with the may	dinarina canta	minant level ("MCL") of 0.010	millianam	
	Violation D	escription	per liter ("mg/l	L") for arsenio	c, based on a	a running annual average. Spe	cifically,	
		·				ns for arsenic were 0.011 mg/ st and second quarters of 2021		
						Base	Penalty	\$5,000
>> Env	vironmenta	al, Propei	ty and Huma		datrix			
		Dalaasa	Maian	Harm	Mina			
OR		Release Actual	Major	Moderate x	Minor			
OK		Potential		X		Percent 50.0%		
B		M = 11						
>>Prog	grammatic F	alsification	Major	Moderate	Minor			
						Percent 0.0%		
						ved by the Facility to be expos		
	Notes	significan	t amount of pollu	tants which d	o not exceed	d levels protective of human he	ealth.	
						Adimetusout	#2 F00	
						Adjustment	\$2,500	
								\$2,500
Violatio	on Events							
	١	Number of V	iolation Events	1		272 Number of violation	days	
			daily					
			weekly					
			monthly quarterly			Violation Base	Penalty	\$2,500
			semiannual					1 /222
			annual	Х				
			single event					
				0				
				One annual ev	vent is recon	imenueu.		
Good F	aith Effort	s to Com	ply	0.0%			Reduction	\$0
			Bef		NOE/NOV to EDI	PRP/Settlement Offer		
			Extraordinary					
			Ordinary	ν.				
			N/A	X				
			Notes	The Responde		meet the good faith criteria violation.		
						Violation	Subtotal	\$2,500
Econon	nic Benefit	(EB) for	this violation	n		Statutory Limit	Test	
		Estimate	ed EB Amount		\$726	Violation Final Pena	ilty Total	\$2,675
				This violet				
				i nis violati	on rinal As	sessed Penalty (adjusted fo	or iimits)	\$2,675

	Economic Benefit Worksheet						
Respondent Case ID No. Reg. Ent. Reference No.	60782						
	Public Water 9					Percent Interest	Years of Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
Item Description							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Dec-2020	27-Jan-2023	2.07	\$35	\$691	\$726
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 corrective actions to return to compliance with the MCL for arsenic, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.						
Avoided Costs	ANNUA	LIZE avoided co	osts before en			one-time avoide	
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		\$5,000			TOTAL		\$726

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



Compliance History Report

Compliance History Report for CN600730048, RN101376978, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, CN600730048, City of Seminole Classification: HIGH

Rating: 0.00

or Owner/Operator:

RN101376978, CITY OF SEMINOLE

Classification: NOT APPLICABLE

Rating: N/A

Complexity Points:

N/A

Repeat Violator: N/A

CH Group:

Regulated Entity:

14 - Other 101 EAST AVENUE A IN SEMINOLE, GAINES COUNTY, TEXAS

TCEQ Region:

Location:

REGION 07 - MIDLAND

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION

WATER LICENSING LICENSE 0830012

0830012

Compliance History Period: September 01, 2015 to August 31, 2020

Rating Year: 2020

Rating Date: 09/01/2020

Date Compliance History Report Prepared: May 19, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 19, 2016 to May 19, 2021

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

Name: America Ruiz Phone: (512) 239-2601

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:

N/A

B. Criminal convictions:

C. Chronic excessive emissions events:

N/A

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

Item 1 July 26, 2017 (1428891)

Item 2 August 18, 2017 (1423942)

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: 08/30/2020 (1633844)

> Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(6)

Description: A leak is present on the east ground storage tank located at Pump Station 1. Failure to provide tank tightness is an alleged violation of 30 TAC 290.43 9 (c)(6).

10/29/2020 (1690820) Date:

> Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: ARS MCL 4Q2020 During the 4th quarter of 2020 the system violated the

maximum contaminant level for Arsenic with a RAA of 0.011 mg/L at EP002 2314 SW AVE G, SEMINOLE and with a RAA of 0.011 mg/L at EP004 at LA TIERRA PS -

CR 304D.

3 Date: 02/09/2021 (1712048)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: ARS MCL 1Q2021 - During the 1st quarter of 2021 the system violated the

maximum contaminant level for Arsenic with a RAA of 0.011 mg/L.

4 Date: 04/29/2021 (1712048)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: ARS MCL 2Q2021 - During the 2nd quarter of 2021 the system violated the

maximum contaminant level for Arsenic with a RAA of 0.011 mg/L.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

,

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CITY OF SEMINOLE	§	
RN101376978	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0663-PWS-E

On	, the Texas Commission on Environmental Quality ("the
Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement
action regarding the City	of Seminole (the "Respondent") under the authority of TEX. HEALTH &
SAFETY CODE ch. 341. Th	e Executive Director of the TCEQ, through the Enforcement Division,
and the Respondent, pre	sented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

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 the Respondent.

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

I. FINDINGS OF FACT

- 1. The Respondent owns and operates a public water supply located at 101 East Avenue A in Seminole, Gaines County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 3,426 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(71).
- 2. During a record review conducted on May 3, 2021 through May 14, 2021, an investigator documented that the running annual average concentrations for arsenic were 0.011 milligram per liter ("mg/L") for the fourth quarter of 2020 and the first and second quarters of 2021.

II. CONCLUSIONS OF LAW

- 1. As evidenced by Finding of Fact No. 1, the 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, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.010 mg/L for arsenic, based on a running annual average, in violation of 30 Tex. ADMIN. CODE § 290.106(f)(3)(C) and Tex. Health & SAFETY CODE § 341.0315(c).
- 3. Pursuant to Tex. Health & Safety Code § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the 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.
- 4. An administrative penalty in the amount of \$2,675 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). The Respondent paid the \$2,675 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the 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 that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Seminole, Docket No. 2021-0663-PWS-E" 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

- 2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Order, return to compliance with the MCL for arsenic, based on the running annual average, in accordance with 30 Tex. Admin. Code § 290.106.
 - b. Within 380 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with

Ordering Provision No. 2.a. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Drinking Water Special Functions Section Manager 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 the Respondent. The 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the 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 above.
- 6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.

City of Seminole DOCKET NO. 2021-0663-PWS-E Page 4

- 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, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Order may be executed in separate and multiple counterparts, which together shall 9. 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.

City of Seminole DOCKET NO. 2021-0663-PWS-E Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	Date					
(in the	2/11/2022					
For the Executive Director	Date					
I, the undersigned, have read and understand the the attached Order, and I do agree to the terms a acknowledge that the TCEQ, in accepting payme on such representation.	and conditions specified therein. I further					
I also understand that failure to comply with the and/or failure to timely pay the penalty amount,						
A negative impact on compliance history; Greater scrutiny of any permit applications submitted; 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, any falsification of any compliance of						
Signature Tohn Belcher	Date Mayor					
Name (Printed or typed) Authorized Representative of City of Seminole	Title					
☐ <i>If mailing address has changed, please check</i>	k this box and provide the new address below:					