

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel

Thru: *MBC* Melissa Cordell, Assistant Deputy Director
Enforcement Division

From: *MP* Michael Parrish, Team Leader
Special Functions Team

Date: May 10, 2024

Subject: Backup Revision
May 22, 2024 Commission Agenda
Draft Item No. 20 – Pecan Grove Mobile Home Park, LLC
Docket No. 2022-0479-PWS-E

Enclosed please find the following:

Executive Summary:

- Page 2, Violation Information, Violation 1: Add Number 1.
- Page 2, Violation Information, Violation 2: Add Violation.
- Page 2, Corrective Action(s) Completed, 1.b: Correct “CCR” acronym

Please do not hesitate to call Michael Parrish at (512) 239-2548 if you have any questions regarding this matter.

cc: Garrett Arthur, Public Interest Counsel
Melissa Schmidt, Public Interest Counsel
Gill Valls, Office of General Counsel
Katherine McKenzie, Agenda Coordinator, Litigation Division
Amy Settemeyer, Deputy Director, Enforcement Division
Melissa Cordell, Assistant Deputy Director, Enforcement Division
Rebecca Margain-Nunez, Executive Assistant, Enforcement Division
Brett Lanham, Manager, Special Functions and Compliance Monitoring,
Enforcement Division
Megan Hamilton, Manager, Drinking Water, Enforcement Division
Ronica Rodriguez Scott, Enforcement Coordinator, Drinking Water, Enforcement
Division

Executive Summary – Enforcement Matter – Case No. 62147
Pecan Grove Mobile Home Park, LLC
RN101450526
Docket No. 2022-0479-PWS-E

Violation Information

1. Failed to comply with the maximum contaminant level of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

2. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 for each year, and failed to submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On September 2, 2022, returned to compliance with the acute maximum contaminant level for nitrate; and
- b. On June 16, 2022, provided the CCR to the customers of the Facility and submitted to the TCEQ a copy of the annual CCR and certification that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2020.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ronica Rodriguez Scott, Enforcement Division, Enforcement Team 5, MC R-14, (361) 881-6990; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Wayne Caldwell Tubb, Owner, Pecan Grove Mobile Home Park, LLC, 20 Allie Drive, McDonough, Georgia 30252

Respondent's Attorney: N/A

Executive Summary – Enforcement Matter – Case No. 62147
Pecan Grove Mobile Home Park, LLC
RN101450526
Docket No. 2022-0479-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Pecan Grove Mobile Home Park, 5501 East Highway 80 near Midland, Midland 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: February 16, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,450

Amount Deferred for Naturally Occurring Inorganic Contaminants: \$2,875

Total Paid to General Revenue: \$575

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

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: February 28, 2022 through March 11, 2022

Date(s) of NOE(s): March 11, 2022

**Executive Summary – Enforcement Matter – Case No. 62147
Pecan Grove Mobile Home Park, LLC
RN101450526
Docket No. 2022-0479-PWS-E**

Violation Information

Failed to comply with the maximum contaminant level of 10 milligrams per liter for nitrate [30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On September 2, 2022, returned to compliance with the acute maximum contaminant level for nitrate; and
- b. On June 16, 2022, provided the Consumer Confidence Report ("CCR") to the customers of the Facility and submitted to the TCEQ a copy of the annual CCR and certification that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2020.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ronica Rodriguez Scott, Enforcement Division, Enforcement Team 5, MC R-14, (361) 881-6990; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Wayne Caldwell Tubb, Owner, Pecan Grove Mobile Home Park, LLC, 20 Allie Drive, McDonough, Georgia 30252

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Mar-2022			
	PCW	24-Mar-2022	Screening	24-Mar-2022	EPA Due 30-Jun-2022

RESPONDENT/FACILITY INFORMATION

Respondent	Pecan Grove Mobile Home Park, LLC				
Reg. Ent. Ref. No.	RN101450526				
Facility/Site Region	7-Midland	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	62147	No. of Violations	1
Docket No.	2022-0479-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ronica Rodriguez
		EC's Team	5
Admin. Penalty \$ Limit	Minimum \$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	25.0% Adjustment	Subtotals 2, 3, & 7	\$625
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Notes	Enhancement for one agreed order without a denial of liability.		
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.		
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,189	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$40,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,875
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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	\$2,875	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,875
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DEFERRAL	100.0%	Reduction	Adjustment	-\$2,875
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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.		
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PAYABLE PENALTY	\$0
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Screening Date 24-Mar-2022

Docket No. 2022-0479-PWS-E

PCW

Respondent Pecan Grove Mobile Home Park, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 62147

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101450526

Media Public Water Supply

Enf. Coordinator Ronica Rodriguez

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>)	0	0%
	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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 24-Mar-2022 **Docket No.** 2022-0479-PWS-E **PCW**
Respondent Pecan Grove Mobile Home Park, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62147 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101450526
Media Public Water Supply
Enf. Coordinator Ronica Rodriguez

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="50.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Pecan Grove Mobile Home Park, LLC
Case ID No. 62147
Reg. Ent. Reference No. RN101450526
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	31-Mar-2022	2-Sep-2022	0.42	\$57	\$1,132	\$1,189
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 acute MCL for nitrate, calculated from the last day of the monitoring period of noncompliance 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40,000

TOTAL

\$1,189



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Mar-2022			
	PCW	24-Mar-2022	Screening	24-Mar-2022	EPA Due 30-Jun-2022

RESPONDENT/FACILITY INFORMATION	
Respondent	Pecan Grove Mobile Home Park, LLC
Reg. Ent. Ref. No.	RN101450526
Facility/Site Region	7-Midland
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	62147	No. of Violations	1
Docket No.	2022-0479-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ronica Rodriguez
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit	Minimum <input type="text" value="\$50"/> Maximum <input type="text" value="\$5,000"/>		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	<input type="text" value="\$500"/>
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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	25.0% Adjustment	Subtotals 2, 3, & 7	<input type="text" value="\$125"/>
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Notes	Enhancement for one agreed order without a denial of liability.
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Culpability	No	0.0% Enhancement	Subtotal 4	<input type="text" value="\$0"/>
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	<input type="text" value="-50"/>
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Economic Benefit	0.0% Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
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Total EB Amounts	<input type="text" value="\$5"/>	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	<input type="text" value="\$113"/>	

SUM OF SUBTOTALS 1-7	Final Subtotal	<input type="text" value="\$575"/>
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OTHER FACTORS AS JUSTICE MAY REQUIRE	<input type="text" value="0.0%"/>	Adjustment	<input type="text" value="\$0"/>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	<input type="text" value="\$575"/>
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	<input type="text" value="\$575"/>
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DEFERRAL	<input type="text" value="0.0%"/>	Reduction	Adjustment	<input type="text" value="\$0"/>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	No deferral is recommended for Findings Orders.
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PAYABLE PENALTY	<input type="text" value="\$575"/>
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Screening Date 24-Mar-2022

Docket No. 2022-0479-PWS-E

PCW

Respondent Pecan Grove Mobile Home Park, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 62147

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101450526

Media Public Water Supply

Enf. Coordinator Ronica Rodriguez

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>)	0	0%
	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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 24-Mar-2022 **Docket No.** 2022-0479-PWS-E **PCW**
Respondent Pecan Grove Mobile Home Park, LLC *Policy Revision 5 (January 28, 2021)*
Case ID No. 62147 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101450526
Media Public Water Supply
Enf. Coordinator Ronica Rodriguez

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Pecan Grove Mobile Home Park, LLC
Case ID No. 62147
Reg. Ent. Reference No. RN101450526
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				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)	\$113	1-Jul-2021	16-Jun-2022	0.96	\$5	n/a	\$5

Notes for DELAYED costs

The delayed cost includes the estimated amount to prepare and mail or directly deliver the most recent CCR to the customers of the Facility and to the TCEQ [(((\$0.50 x 125 connections) + \$50) x one year), calculated from the due date of the most recent CCR 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				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$113

TOTAL \$5



Compliance History Report

Compliance History Report for CN605435734, RN101450526, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN605435734, Pecan Grove Mobile Home Park, LLC **Classification:** UNCLASSIFIED **Rating:** -----
Regulated Entity: RN101450526, PECAN GROVE MOBILE HOME PARK **Classification:** UNCLASSIFIED **Rating:** -----
Complexity Points: 0 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 5501 EAST HIGHWAY 80 NEAR MIDLAND, MIDLAND COUNTY, TEXAS
TCEQ Region: REGION 07 - MIDLAND

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1650024

AIR NEW SOURCE PERMITS ACCOUNT NUMBER ML0282R

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: September 18, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 18, 2018 to September 18, 2023

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

Name: Ronica Rodriguez Scott

Phone: (361) 881-6990

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: 04/26/2019 ADMINORDER 2018-0116-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: NO3 AMCL 3Q2017 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 11 mg/L collected on 08/29/2017.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(2)
5A THSC Chapter 341, SubChapter A 341.031(a)
Description: NO3 AMCL 2Q2017 - This system exceeded the MCL of 10 mg/L for nitrate (as nitrogen) with a sample result of 11 mg/L collected on 05/01/2017.

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.

N/A

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
PECAN GROVE MOBILE HOME PARK,
LLC
RN101450526

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0479-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pecan Grove Mobile Home Park, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented 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 5501 East Highway 80 near Midland, Midland County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 125 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 for the Facility conducted on February 28, 2022 through March 11, 2022, an investigator documented that:
 - a. The single sample concentration for nitrate was 11 milligrams per liter ("mg/L") for the first quarter of 2022.
 - b. The Respondent did not mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 for each year, and did not submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the

Facility and that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2020.

3. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. On September 2, 2022, returned to compliance with the acute maximum contaminant level ("MCL") for nitrate; and
 - b. On June 16, 2022, provided the CCR to the customers of the Facility and submitted to the TCEQ a copy of the annual CCR and certification that the information in the CCR is correct and consistent with compliance monitoring data for calendar year 2020.

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.a, the Respondent failed to comply with the MCL of 10 mg/L for nitrate, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(2) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 for each year, and failed to submit to the TCEQ by July 1 for each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. 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.
5. An administrative penalty in the amount of \$3,450 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 \$575 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 \$2,875, is deferred contingent upon the 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 the 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.

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. 5 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: Pecan Grove Mobile Home Park, LLC, Docket No. 2022-0479-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. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon 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.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
5. 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.
6. 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.
7. 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise

reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

4/2/2024

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.

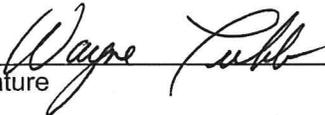
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG 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 OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Signature

Date



Name (Printed or typed)
Authorized Representative of
Pecan Grove Mobile Home Park, LLC

Date

Title

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