

Executive Summary – Enforcement Matter – Case No. 62902
SIMPLY AQUATICS, INC.
RN101247815
Docket No. 2022-1135-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three repeated enforcement actions (or two orders with nuisance violations) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

La Playa Subdivision Water System, located less than a mile west of Farm-to-Market Road 2390 and Farm-to-Market Road 2139, Broadus, San Augustine 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: April 19, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,210

Total Paid to General Revenue: \$170

Total Due to General Revenue: \$5,040

Payment Plan: 35 payments of \$144 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

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: August 22, 2022 through September 2, 2022

Date(s) of NOE(s): September 2, 2022

Executive Summary – Enforcement Matter – Case No. 62902
SIMPLY AQUATICS, INC.
RN101247815
Docket No. 2022-1135-PWS-E

Violation Information

Failed to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On November 7, 2022, the Respondent sold the system to CSWR-TEXAS UTILITY OPERATING COMPANY, LLC.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ashley Lemke, Enforcement Division, Enforcement Team 4, MC R-12, (512) 239-1118; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Kevin Hester, President, SIMPLY AQUATICS, INC., P.O. Box 849, Kirbyville, Texas 75956

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	12-Sep-2022			
	PCW	20-Sep-2022	Screening	15-Sep-2022	EPA Due 30-Sep-2022

RESPONDENT/FACILITY INFORMATION

Respondent	SIMPLY AQUATICS, INC.				
Reg. Ent. Ref. No.	RN101247815				
Facility/Site Region	10-Beaumont		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	62902	No. of Violations	1
Docket No.	2022-1135-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ashley Lemke
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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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	69.0%	Adjustment	Subtotals 2, 3, & 7	\$862
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Notes: Enhancement for two NOVs with dissimilar violations, two agreed orders containing a denial of liability, 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: \$3,148
Estimated Cost of Compliance: \$3,027
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,112
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OTHER FACTORS AS JUSTICE MAY REQUIRE	146.7%	Adjustment	\$3,098
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance for Violation No. 1. Recommended reduction to offset the portion of the Compliance History adjustment caused by the two NOVs that occurred after the change in ownership.

Final Penalty Amount	\$5,210
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,210
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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	\$5,210
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Screening Date

15-Sep-2022

Docket No.

2022-1135-PWS-E

PCW

Respondent

SIMPLY AQUATICS, INC.

Case ID No.

62902

Reg. Ent. Reference No.

RN101247815

Media

Public Water Supply

Enf. Coordinator

Ashley Lemke

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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)

69%

>> Repeat Violator (Subtotal 3)

N/A

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 two NOVs with dissimilar violations, two agreed orders containing a denial of liability, and one agreed order without a denial of liability.

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

69%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

69%

Screening Date	15-Sep-2022	Docket No.	2022-1135-PWS-E	PCW
Respondent	SIMPLY AQUATICS, INC.	<i>Policy Revision 5 (January 28, 2021)</i>		
Case ID No.	62902	<i>PCW Revision February 11, 2021</i>		
Reg. Ent. Reference No.	RN101247815			
Media	Public Water Supply			
Enf. Coordinator	Ashley Lemke			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)			
Violation Description	Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts ("DBP2") at Site 1 were 0.151 mg/L for the first quarter of 2022 and 0.150 mg/L for the second quarter of 2022.			
			Base Penalty	\$5,000
>> Environmental, Property and Human Health Matrix				
OR		Harm		
	Release	Major	Moderate	Minor
	Actual		X	
	Potential			
			Percent	25.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
			Percent	0.0%
Matrix Notes	Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.			
			Adjustment	\$3,750
				\$1,250
Violation Events				
Number of Violation Events		1	180	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual	X		
	single event			
Violation Base Penalty \$1,250				
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	\$1,250
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount		\$3,148	Violation Final Penalty Total	\$5,211
			This violation Final Assessed Penalty (adjusted for limits)	\$5,211

Economic Benefit Worksheet

Respondent SIMPLY AQUATICS, INC.
Case ID No. 62902
Reg. Ent. Reference No. RN101247815
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)				0.00	\$0	n/a	\$0
Notes for DELAYED costs							

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
Other (as needed)	\$5,000	31-Mar-2022	7-Nov-2022	0.61	\$121	\$3,027	\$3,148
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	The avoided cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the first quarter of noncompliance to the date of the change in ownership.						

Approx. Cost of Compliance \$3,027

TOTAL \$3,148



Compliance History Report

Compliance History Report for CN603139346, RN101247815, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN603139346, SIMPLY AQUATICS, INC. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101247815, LA PLAYA SUBDIVISION WATER SYSTEM **Classification:** NOT APPLICABLE **Rating:** N/A

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

CH Group: 14 - Other

Location: LESS THAN A MILE WEST OF FARM-TO MARKET ROAD 2390 AND FARM-TO-MARKET ROAD 2139 IN BROADDUS, SAN AUGUSTINE COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2030015

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

Date Compliance History Report Prepared: January 16, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 16, 2019 to January 16, 2024

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

Name: Ashley Lemke **Phone:** (512) 239-1118

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? CSWR-TEXAS UTILITY OPERATING COMPANY, LLC OWNER since 11/8/2022
- 4) Who was/were the prior owner(s)/operator(s)? Simply Aquatics, Inc., OWNER, 11/15/2017 to 11/7/2022

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

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

- 1 Effective Date: 09/16/2019 ADMINORDER 2018-1096-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 2Q2018 - During the 2nd quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.224 mg/L at 467 CR 4719, BROADDUS (DBP2-01).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 1Q2018 - During the 1st quarter of 2018 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.205 mg/L at 467 CR 4719, BROADDUS (DBP2-01).
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 4Q2017 - During the 4th quarter of 2017 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.229 mg/L at 467 CR 4719, BROADDUS (DBP2-01).

- 2 Effective Date: 09/20/2022 ADMINORDER 2021-0422-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

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

Description: Failure to obtain a sanitary control easement covering land within 150 feet of the Facility's Well No. 2.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)

Description: Failure to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, records of the amount of each chemical used each week did not include the liquid ammonium sulfate, records of the dates that dead-end mains were flushed did not include the dead-end on the distribution map south-east of the plant, and records of the Customer Service Inspection reports were not retained on-site for review.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(iii)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide two or more service pumps having a total capacity of 2.0 gallons per minute ("gpm") per connection. Specifically, the Facility had 25 connections requiring a service pump capacity of 50 gpm. However, the Facility only provided one service pump which provided 125 gpm total capacity.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)

Description: Failure to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)

Description: Failure to ensure that the electrical wiring is securely installed in compliance with a local or national electric code. Specifically, the wiring on Well No. 2 was exposed.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(i)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a well capacity of 0.6 gpm per connection. Specifically, the Facility had 25 connections requiring a well capacity of 15 gpm. However, only 4 gpm were provided, indicating an 73% deficiency.

3 Effective Date: 02/14/2023 ADMINORDER 2022-1308-UTL-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2B TWC Chapter 13, SubChapter A 13.1394(b)(2)

Description: Failure to submit to the TCEQ for approval an emergency preparedness plan ("EPP") that demonstrates the Facility's ability to provide emergency operations. As of the date of this investigation, System has not submitted EPP for approval.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 16, 2021	(1750707)
Item 2	December 21, 2022	(1866727)
Item 3	May 18, 2023	(1887768)

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:	08/21/2023	(1918365)	
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
	Description:	Failure by CSWR – La Playa Subdivision to have operating records accessible for review upon request.		
	Self Report?	NO		Classification: Minor

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

Description: Failure by CSWR – La Playa Subdivision to have an adequate Plant

Operations Manual.

Self Report? NO Classification: Minor

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

Description: Failure by CSWR – La Playa Subdivision to have a complete monitoring plan.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure by CSWR – La Playa Subdivision to have the overflow on the ground storage tank covered with a gravity hinged and weighted cover, an elastomeric duckbill valve, or other approved device.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)

Description: Failure by CSWR – La Playa Subdivision to lock all roof hatches.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure by CSWR – La Playa Subdivision to maintain the disinfection residual above 0.2 milligrams per liter (mg/L) free chlorine throughout distribution.

2 Date: 11/03/2023 (1932297)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)

Description: Failure by CSWR Texas Utility Operating Company – La Playa Subdivision to maintain a complete record of the distribution residual monitoring results.

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

Appendix A

All NOV's Issued During Component Period 1/16/2019 and 1/16/2024

Page 4

storage tank covered with a gravity hinged and weighted cover, an elastomeric duckbill valve, or other approved device.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
Description: Failure by CSWR – La Playa Subdivision to lock all roof hatches.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure by CSWR – La Playa Subdivision to maintain the disinfection residual above 0.2 milligrams per liter (mg/L) free chlorine throughout distribution.

6 Date: 11/03/2023 (1932297)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
Description: Failure by CSWR Texas Utility Operating Company – La Playa Subdivision to maintain a complete record of the distribution residual monitoring results.

* NOV's applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

Appendix B

All Investigations Conducted During Component Period January 16, 2019 and January 16, 2024

Item 1	May 19, 2020**	(1646554)
Item 2	March 24, 2021**	(1703036)
Item 3*	August 16, 2021**	(1750707)
Item 4	August 30, 2022**	(1840254)
Item 5	September 08, 2022**	(1840840)
Item 6	September 27, 2022**	(1846131)
Item 7*	December 21, 2022**	(1866727)
Item 8*	May 18, 2023**	(1887768)
Item 9	August 18, 2023**	(1918365)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SIMPLY AQUATICS, INC.
RN101247815

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1135-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SIMPLY AQUATICS, INC. (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 they have 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 less than a mile West of Farm-to-Market Road 2390 and Farm-to-Market Road 2139 in Broaddus, San Augustine County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 25 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(73).
2. During a record review for the Facility conducted on August 22, 2022 through September 2, 2022, an investigator documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts ("DBP2") at Site 1 were 0.151 milligrams per liter ("mg/L") for the first quarter of 2022 and 0.150 mg/L for the second quarter of 2022.
3. The Executive Director recognizes that on November 7, 2022, the Respondent sold the system to CSWR- TEXAS UTILITY OPERATING COMPANY, LLC.

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 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) 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 \$5,210 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 \$170 of the penalty. The remaining amount of \$5,040 shall be paid in 35 monthly payments of \$144 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

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: SIMPLY AQUATICS, INC., Docket No. 2022-1135-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.

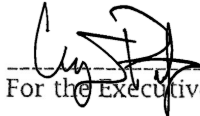
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



5/7/2024

For the Executive Director

Date

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

I also understand that failure to comply with the Ordering Provisions, 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

Kevin Hester

President

Name (Printed or typed)
Authorized Representative of
SIMPLY AQUATICS, INC.

Title

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

PO Box 849
Kirbyville, TX 75956

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.