

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

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U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of

§ Docket No. SDWA-06-2015-1205

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§

GEORGE W. JACKSON,
d/b/a Fort Jackson Mobile Estates,

§ Proceeding to Assess a Class I Civil Penalty
§ under Section 303g-3(g)(3) of the
§ Safe Drinking Water Act

Respondent

§

§

§ ADMINISTRATIVE COMPLAINT

PWS ID Number: TX1520064

§

I. Statutory Authority

This Administrative Complaint (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g)(3) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g)(3). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 (“Complainant”). This Complaint is issued in accordance with, and this action will be conducted under, the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits,” including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that Respondent violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Mr. George Jackson, doing business as Fort Jackson Mobile Estates (“Respondent”), is a “person,” as defined by Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. According to Section 1401(4) of the Act, 42 U.S.C. § 300f (4), a public water system (“PWS”) provides water to the public for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

3. According to Section 1401(15) of the Act, 42 U.S.C. § 300f (15), a “community water system” means a PWS that serves at least fifteen (15) service connections used by year-round residents served by the system or that regularly serves at least twenty-five (25) year-round residents.

4. According to Section 1401(5) of the Act, 42 U.S.C. § 300f (5), a “supplier of water” is a person who owns or operates a PWS.

5. At all times relevant to the violations alleged herein, Respondent owned or operated the Fort Jackson Mobile Estates water system, a PWS as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f (4), located in Lubbock, Lubbock County, Texas (“facility”), and designated as PWS number TX1520064.

6. The facility serves over 25 residents year-round and is therefore a community water system.

7. As an owner or operator of a PWS, Respondent is a supplier of water pursuant to Section 1401(5) of the Act, 42 U.S.C. § 300f(5).

8. Respondent, as a supplier of water, and the facility, as a community PWS, are subject to the regulations promulgated by EPA pursuant to Section 1412 of the Act, 42 U.S.C. § 300g-1, entitled National Primary Drinking Water Regulations (“NPDWR”).

9. Pursuant to Section 1413(a) of the Act, 42 U.S.C. Section 300g-2(a), the State of Texas, acting through the Texas Commission on Environmental Quality (“TCEQ”), has primary

enforcement responsibility, to ensure that suppliers of water within the State comply with the requirements of the Act.

10. TCEQ and the EPA have enforcement authority for the PWS provisions of the Act in the State of Texas. TCEQ and EPA have consulted regarding this Order, and it has been agreed that EPA would initiate this enforcement action.

11. At all times relevant to the violations alleged herein, Respondent's facility was subject to the maximum contaminant level requirements for fluoride as described by 40 C.F.R. § 141.62(b)(1).

12. During the relevant time period, Respondent's facility was required to conduct monitoring to determine compliance regarding fluoride levels. Respondent is required to comply with a Maximum Contaminant Level ("MCL") of 4 mg/L for fluoride as specified in 40 C.F.R. § 141.62(b)(1).

13. Respondent monitored for fluoride during the 4th quarter of 2008, the 1st quarter of 2011, and from the 2nd through the 3rd quarters of 2013, resulting in an annual average of 7.14 mg/l for fluoride in violation of the MCL specified in 40 C.F.R. § 141.62(b)(1).

14. On February 14, 2014, EPA issued Administrative Order Docket No. SDWA-06-2014-1306 ("Order") (Attached and incorporated herein at Attachment A) to Respondent, pursuant to EPA's authority under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), citing MCL violations during the 4th quarter of 2008, the 1st quarter of 2011, and during the 2nd through the 3rd quarters of 2013, and ordered the following:

- A. "If Respondent has not provided public notice, as required by 40 C.F.R. § 141.201 regarding the violations specified in paragraph 13, Respondent shall, within thirty (30) days of the issuance of this Order, provide a public notice of the violations as set forth in 40 C.F.R. § 141.201. Respondent shall submit a copy of the public notice to EPA and TCEQ within forty (40) days of the effective date of this Order."

- B. "Within one hundred and twenty (120) days of the effective date of this Order, Respondent shall submit to EPA a detailed plan to bring the System into compliance with the MCL for fluoride. The plan shall include: 1) a system modification proposal; 2) a cost analysis of system modifications; and 3) a construction schedule for the project. The schedule shall include specific milestone dates and a final compliance date that is no later than eighteen (18) months from the effective date of this Order. The plan must be submitted to EPA for concurrence before construction can commence."
- C. "Respondent must achieve and maintain compliance with 40 C.F.R. § 141.62(b)(1) by the date specified in the approved plan, or not later than eighteen (18) months after the effective date of this Order, whichever is earliest."
- D. "Within ninety (90) days of the effective date of this Order, Respondent shall submit to EPA an initial report on the progress made to bring the PWS into compliance with the fluoride MCL. Following the initial report, a quarterly progress report shall be to EPA within ten (10) days after the end of each calendar quarter. Respondent shall notify EPA when all improvements have been completed."

15. The issuance date of the Order was February 14, 2014, and the effective date of the Order was March 18, 2014.

16. Respondent failed to comply with each Order requirement specified in paragraph 14 above, and is therefore liable for a civil penalty pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g).

17. Pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300f et seq., Respondent is liable for an administrative civil penalty in an amount not to exceed \$37,500.00 for violation of the Order.

III. Proposed Penalty

18. Based on these Findings and Conclusions, having taken into account the serious nature of the violations, the population at risk, and other appropriate factors including with respect to the violator, ability to pay, the past history of such violations, degree of culpability, and other matters as justice may require, and pursuant to the authority of Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), EPA proposes to assess against Respondent a penalty of seven thousand dollars (\$7,000.00).

19. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Procedure Act.

IV. Failure to File an Answer

20. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

21. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

22. If Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final Default Order is issued.

23. Respondent must send its Answer to this Complaint, including any request for a Hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Complaint was sent to the following persons,
in the manner specified, on the date below:

- Original hand-delivered: Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
- Copy by certified mail, Mr. Bryan Sinclair
Director, Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
- Copy by certified mail, Ms. Linda Brookins
Director, Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087
- Copy hand-delivered: Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: JAN 27 2015

