

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ALLEN WATTS DBA  
LAGO VISTA WATER SYSTEM;  
RN102676350**

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§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER**

**DOCKET NO. 2019-1165-PWS-E**

**I. JURISDICTION AND STIPULATIONS**

On July 14, 2020, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Allen Watts dba Lago Vista Water System ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a public water system located at 1918 South State Highway 80 in Luling, Guadalupe County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 15 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. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of three thousand two hundred eighty-six dollars (\$3,286.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred eighty-six dollars (\$186.00) of the penalty. The remaining amount of three thousand one hundred dollars (\$3,100.00) shall be paid in thirty-one (31) monthly payments of one hundred dollars (\$100.00) 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 Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the

maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. 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.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. On February 3, 2020, posted a legible sign at the Facility's production, treatment, and storage facilities (Allegation 1.g.).
  - b. On February 3, 2020, trimmed the overgrown trees and shrubs and repaired the well meter and the barbed wire so it is angled outward at a 45-degree angle (Allegation 1.h.).
  - c. On February 18, 2020, installed the well and pump house electrical wiring securely and in compliance with a local or national electrical code (Allegation 1.a.).
  - d. On February 19, 2020, developed a thorough and up-to-date plant operations manual for operator review and reference (Allegation 1.f.).
  - e. On February 19, 2020, adopted a service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted (Allegation 1.i.).

## II. ALLEGATIONS

1. During an investigation conducted on June 19, 2019, a TCEQ staff investigator documented that Respondent:
  - a. Failed to ensure that all electrical wiring is securely installed in compliance with a local or national electrical code, in violation of 30 TEX. ADMIN. CODE § 290.46(v). Specifically, the electrical wiring for the well and pump house was not in conduit;
  - b. Failed to ensure that all clearwells and water storage tanks have a liquid level indicator located at the tank site, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4);
  - c. Failed to develop and maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b);
  - d. Failed to maintain accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tanks at the public water system until the Facility is decommissioned, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(1);
  - e. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and (f)(3)(A)(i)(III). Specifically, the records of the amount of each chemical used each week were not available;
  - f. Failed to maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l);
  - g. Failed to post a legible sign at the Facility's production, treatment, and storage facilities in plain view that contains the name of the Facility and an emergency telephone number where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t). Specifically, the ownership sign posted on the pump house was faded and the contact information was not legible;
  - h. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m). Specifically, the Facility was overgrown with trees and shrubs, the well meter was inoperable, and the barbed wire was not angled outward at a 45-degree angle;
  - i. Failed to obtain a sanitary control easement for all land within 150 feet of the Facility's well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F);
  - j. Failed to conduct an annual inspection of the Facility's ground storage tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A);

- k. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2);
- l. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 TEX. ADMIN. CODE § 290.46(i);
- m. Failed to cover the overflow's discharge opening with a gravity-hinged and weighted cover, an elastomeric duckbill valve, or other approved device to prevent the entrance of insects and other nuisances, which closes automatically and fits tightly with no gap over 1/16 inch, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3). Specifically, the overflow did not have a gravity-hinged and weighted cover;
- n. Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A); and
- o. Failed to use a water works operator who holds a Class "D" or higher license, in violation of TEX. HEALTH & SAFETY CODE § 341.033(a) and 30 TEX. ADMIN. CODE § 290.46(e)(4)(A).

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

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

- 1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Allen Watts dba Lago Vista Water System, Docket No. 2019-1165-PWS-E" to:

Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Compile and begin maintaining monthly water works operation and maintenance records, including but not limited to records of the amount of each chemical used each week, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.e.);
    - ii. Develop and begin maintaining an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in accordance with 30 TEX. ADMIN. CODE § 290.121 (Allegation 1.c.);
    - iii. Conduct an annual inspection of the Facility's ground storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.j.);
    - iv. Begin operating the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher groundwater water license, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.o.); and
    - v. Monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days, in accordance with 30 TEX. ADMIN. CODE § 290.110 (Allegation 1.n.).
  - b. Within 45 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.g., to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.v.
  - c. Within 60 days after the effective date of this Order:
    - i. Develop and begin maintaining an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.k.);
    - ii. Cover the overflow's discharge opening with a gravity-hinged and weighted cover, an elastomeric duckbill valve, or other approved device to prevent the entrance of insects and other nuisances, which closes automatically and fits tightly with no gap over 1/16 inch, in accordance with 30 TEX. ADMIN. CODE § 290.43 (Allegation 1.m.); and
    - iii. Ensure that the Facility's water storage tank has a liquid level indicator located at the tank site, in accordance with 30 TEX. ADMIN. CODE § 290.43 (Allegation 1.b.).
  - d. Within 75 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.g., to demonstrate compliance with Ordering Provision Nos. 2.c.i through 2.c.iii.

- e. Within 90 days after the effective date of this Order:
- i. Obtain a sanitary control easement for all land within 150 feet of the Facility's well, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39(l) (Allegation 1.i.). Exception requests shall be submitted to:  

Technical Review and Oversight Team  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - ii. Compile and begin maintaining accurate and up-to-date detailed as-built plans or record drawings and specifications for each treatment plant, pump station, and storage tanks at the public water system until the Facility is decommissioned, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Allegation 1.d.).
- f. Within 105 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.g., to demonstrate compliance with Ordering Provision Nos. 2.e.i and 2.e.ii.
- g. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:
- "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

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

and:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. 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.
8. 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

*Frank E. Chamallop*

\_\_\_\_\_  
Date

July 14, 2020

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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 in this Order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

*Allen Watts*

5-4-2020

\_\_\_\_\_  
Signature - Mr. Allen Watts  
PO Box 1296  
Luling, Texas 78648

\_\_\_\_\_  
Date

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

\_\_\_\_\_



Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Toby Baker, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

July 17, 2020

Via First Class Mail, Postage Prepaid

Allen Watts  
P.O. Box 1296  
Luling, Texas 78648

Re: TCEQ Enforcement Action  
Allen Watts dba Lago Vista Water System  
Docket No. 2019-1165-PWS-E

Dear Mr. Watts:

Enclosed for your records is a fully-executed copy of the Agreed Order for the above-referenced matter. The first monthly payment of one hundred dollars (\$100) will be due within 30 days from the date this Order was signed by the Executive Director. Thereafter, subsequent payments will be due within 30 days following the due date of the previous payment until paid in full. To ensure that payments are credited properly, the docket number should be written in the "memo" line of each check. If you have any questions you may contact me at the TCEQ Litigation Division at (512) 239-3400 or my e-mail address listed below.

Sincerely,

A handwritten signature in black ink that reads "Ryan Rutledge".

Ryan Rutledge, Staff Attorney  
Litigation Division  
[ryan.rutledge@tceq.texas.gov](mailto:ryan.rutledge@tceq.texas.gov)

Enclosures

cc: Yuliya Dunaway, Enforcement Division  
Lynn Bumguardner, San Antonio Regional Office  
Garrett Arthur, Public Interest Counsel  
Janice Hernandez, Litigation Division