

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0977-PWS-E TCEQ ID: RN102676350 CASE NO.: 36057

RESPONDENT NAME: ALLEN WATTS DBA LAGO VISTA WATER SYSTEM

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 1918 S. State Highway 80, Luling, Guadalupe County

TYPE OF OPERATION: Public water supply facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement action regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 29, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Rebecca Clausewitz, Water Enforcement Section, MC R-13, (210) 403-4012

TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 490-3096

Respondent: Mr. Allen Watts, Owner, Lago Vista Water System, 1918 S. State Highway 80, Luling, Texas 78648-4004

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 18, 2008</p> <p>Date of NOE Relating to this Case: March 31, 2008</p> <p>Background Facts: The EDPRP was filed September 11, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS: Failed to mail or directly deliver one copy of the annual Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data, [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).]</p>	<p>Total Assessed: \$2,068</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,068</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> 1. Within 30 days: <ol style="list-style-type: none"> a. Mail or directly deliver a copy of the 2007 CCR to all bill paying customers of the water system and make a good faith effort to deliver a copy of the 2007 CCR to all non-bill paying consumers of the water system; and b. Submit to the Commission a copy of the 2007 CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data. 2. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision 1.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

TCEQ

DATES	Assigned	5-May-2008	Screening	9-Jun-2008	EPA Due	28-Feb-2002
	PCW	13-Jun-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Allen Watts dba Lago Vista Water System
Reg. Ent. Ref. No.	RN102676350
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36057	No. of Violations	1
Docket No.	2008-0977-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Rebecca Clausewitz
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$700
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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	120.0% Enhancement	Subtotals 2, 3, & 7	\$840
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Notes
The enhancement is due to one prior Agreed Order without a denial of liability, one prior Court Order containing a default judgment, ten prior Notices of Violation ("NOVs") containing violations that are similar to the violations in the current enforcement action, and five prior NOVs with dissimilar violations.

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	0.0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes
The Respondent does not meet the good faith criteria.

Total EB Amounts	\$528	0.0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$392	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,540
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OTHER FACTORS AS JUSTICE MAY REQUIRE	34.0%	Adjustment	\$528
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes
An enhancement is recommended for recovery of the avoided costs of compliance.

Final Penalty Amount	\$2,068
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,068
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,068
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Screening Date 9-Jun-2008

Docket No. 2008-0977-PWS-E

PCW

Respondent Allen Watts dba Lago Vista Water System

Policy Revision 2 (September 2002)

Case ID No. 36057

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102676350

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	10	50%
	Other written NOV's	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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	1	35%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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) 120%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The enhancement is due to one prior Agreed Order without a denial of liability, one prior Court Order containing a default judgment, ten prior Notices of Violation ("NOVs") containing violations that are similar to the violations in the current enforcement action, and five prior NOV's with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 120%

Screening Date 9-Jun-2008	Docket No. 2008-0977-PWS-E	PCW												
Respondent Allen Watts dba Lago Vista Water System	<i>Policy Revision 2 (September 2002)</i>													
Case ID No. 36057	<i>PCW Revision April 29, 2008</i>													
Reg. Ent. Reference No. RN102676350														
Media [Statute] Public Water Supply														
Enf. Coordinator Rebecca Clausewitz														
Violation Number <input type="text" value="1"/>														
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and (c)"/>													
Violation Description	<p>Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with compliance monitoring data, to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006, nor did the Respondent submit the CCRs or the required certification to the TCEQ for the years 2000 through 2006.</p>													
Base Penalty		<input type="text" value="\$1,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release Major Moderate Minor													
	Actual <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>												
Potential <input type="text"/> <input type="text"/> <input type="text"/>														
>> Programmatic Matrix														
	Falsification Major Moderate Minor													
	<input type="text"/> <input type="text" value="x"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="10%"/>												
Matrix Notes	<input type="text" value="100% of the rule requirements were not met."/>													
56	Adjustment	<input type="text" value="\$900"/>												
		<input type="text" value="\$100"/>												
Violation Events														
Number of Violation Events	<input type="text" value="7"/>	Number of violation days												
	<input type="text" value="2190"/>													
<i>mark only one with an x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text" value="x"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text" value="x"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$700"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text" value="x"/>													
single event	<input type="text"/>													
<p>Seven annual events are recommended for the seven years during which no CCR or certification of delivery was submitted to the TCEQ.</p>														
Economic Benefit (EB) for this violation		Statutory Limit Test												
Estimated EB Amount	<input type="text" value="\$528"/>	Violation Final Penalty Total												
		<input type="text" value="\$2,068"/>												
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,068"/>												

Economic Benefit Worksheet

Respondent Allen Watts dba Lago Vista Water System

Case ID No. 36057

Reg. Ent. Reference No. RN102676350

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	Onetime Costs	EB Amount
No commas or \$							

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 [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$392	1-Jul-2001	1-Jul-2007	6.92	\$136	\$392	\$528
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to copy and distribute the CCR to the customers of the water supply and to submit a copy to the TCEQ, calculated from the date the 2000 CCR was due to the date the 2006 CCR was due.

Approx. Cost of Compliance

\$392

TOTAL

\$528

Compliance History

Customer/Respondent/Owner-Operator: CN601358740 WATTS, ALLEN Classification: Rating:
Regulated Entity: RN102676350 LAGO VISTA WATER SYSTEM Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0940029
WATER LICENSING LICENSE 0940029
Location: 1918 S STATE HIGHWAY 80, LULING, GUADALUPE COUNTY
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: June 12, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 12, 2003 to June 12, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/22/2003

ADMINORDER 2002-0848-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(5)

Description: Failure to collect and submit tap samples for lead/copper analysis.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702(a)

30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: Failed to pay Public Health Services fees for Financial Administration Account No. 940029.

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: 1. ORDER

Description: Failed to comply with Commission Order Docket # 1998-1105-PWS-E by failing to pay the penalty.

Effective Date: 03/07/2007

COURTORDER

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(5)

5A THC Chapter 341, SubChapter A 341.031

Description: Failure to submit to the Commission water samples from the Facility for lead/copper analysis for the following sampling periods: January 1, 1995 thru June 30, 1995 and July 1, 1995 thru December 1, 1995.

Classification: Minor

Citation: 5A THC Chapter 341, SubChapter A 341.041

Description: Failure to pay the Public Health Service for for account number 90940029 for the following periods and amounts: For the year 1995 a total of \$99.91 for the year 1996 a total of \$92.81; and for the year 1997 a total of \$92.81.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(a)(1)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to submit water samples for bact analysis for April-December 1997 and January-June 1998 and failure to provide public notice of the failure to sample.

Classification: Moderate

Description: Failure to collect and submit tap samples for lead/copper analysis.

Classification: Minor

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

Description: Failure to make available sanitary control easements for well #1 at the time of inspection.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all water storage facilities in a watertight condition. In this connection, the leaking pressure tank located at the well site must be repaired or replaced as necessary.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702(a)

30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: Failed to pay Public Health Services fees for Financial Administration Account No. 940029.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 04/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 04/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: Failure to collect all the repeat samples in 04/2004 following a coliform found result.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post a PN for not collecting all the repeat samples in 04/2004 following a coliform found result.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 06/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 06/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect all of the 5 distribution samples in 12/2004 following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post a PN for not collecting all of the 5 distribution samples in 12/2004 following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 06/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 06/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 08/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 08/2005.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 07/2004.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 07/2004.

Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: 1. ORDER

Description: Failed to comply with Commission Order Docket # 1998-1105-PWS-E by failing to pay the penalty.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.106(a)

5A THC Chapter 341, SubChapter A 341.033(d)

Rqmt Prov: 2a ORDER

Description: Failure to collect monthly samples which are representative of the Facility's water system, according to the Facility's written Sample Siting Plan.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	05/26/2004	(450426)
2	06/07/2004	(268861)
3	06/30/2004	(450970)
4	07/29/2004	(450978)
5	01/28/2005	(450980)
6	04/02/2005	(371815)
7	07/01/2005	(450993)
8	09/02/2005	(450999)
9	01/24/2006	(453040)
10	02/15/2007	(644125)
11	05/01/2007	(644528)
12	06/02/2007	(644839)
13	07/02/2007	(645154)
14	07/15/2007	(645233)
15	08/31/2007	(573009)
16	10/01/2007	(645873)
17	05/09/2008	(654970)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

1 Date: 04/30/2004 (450426)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 04/2004.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 04/2004.

- 2 Date: 05/26/2004 (450426)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
 Description: Failure to collect all the repeat samples in 04/2004 following a coliform found result.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting all the repeat samples in 04/2004 following a coliform found result.
- 3 Date: 06/07/2004 (268861)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to make available sanitary control easements for well #1 at the time of inspection.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain all water storage facilities in a watertight condition. In this connection, the leaking pressure tank located at the well site must be repaired or replaced as necessary.
- 4 Date: 06/30/2004 (450970)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 06/2004.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 06/2004.
- 5 Date: 07/29/2004 (450978)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 07/2004.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 07/2004.
- 6 Date: 01/28/2005 (450980)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
 Description: Failure to collect all of the 5 distribution samples in 12/2004 following a coliform found month.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: Failure to post a PN for not collecting all of the 5 distribution samples in 12/2004 following a coliform found month.
- 7 Date: 07/01/2005 (450993)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 06/2005.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 06/2005.

- 8 Date: 09/02/2005 (450999)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
 Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 08/2005.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 Description: Failure to post a PN for exceeding a Maximum Contaminant Level (MCL) Violation in 08/2005.
- 9 Date: 02/15/2007 (644125)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
 Description: BACT - MONITORING/REPORTING VIOLATIONS
- 10 Date: 05/01/2007 (644528)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
 Description: PUBLIC NOTICE
- 11 Date: 06/02/2007 (644839)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(2)
 Description: BACT - NONACUTE MCL (5% OR >1)
- 12 Date: 07/02/2007 (645154)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
 Description: PUBLIC NOTICE
- 13 Date: 07/15/2007 (645233)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
 Description: BACT - MONITORING/REPORTING VIOLATIONS
- 14 Date: 08/29/2007 (573009)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain all water storage facilities in a watertight condition. In this connection, the leaking pressure tank located at the well site must be repaired or replaced as necessary.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
 Description: Failure to acquire sanitary easements for the area 150 ft surrounding the system's well.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 Description: Failure to provide an adequate storage tank overflow.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(iii)
 Description: Failure to provide the system with at least two service pumps.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 Description: Failure to make available records of operations.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)
 Description: Failure to provide a distribution map and well completion data.
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to provide the water system with a Monitoring Plan.
Self Report? NO Classification: Major

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

Description: Failure to maintain adequate minimum disinfectant residual of 0.2 mg/L throughout the distribution system.

Self Report? NO Classification: Major

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

Description: Failure to operate the system under the supervision of a licensed operator.

15 Date: 10/01/2007 (645873)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)

Description: PUBLIC NOTICE

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
ALLEN WATTS DBA LAGO
VISTA WATER SYSTEM,
RN102676350**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2008-0977-PWS-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Allen Watts dba Lago Vista Water System ("Mr. Watts").

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

FINDINGS OF FACT

1. Mr. Watts owns and operates a public water supply facility located at 1918 S. State Highway 80, Luling, Guadalupe County, Texas (the "Facility").
2. The Facility has 12 service connections. The Facility serves at least 25 people per day for at least 60 days per year and provides water for human consumption.
3. During a record review conducted on February 18, 2008, the Public Drinking Water Section of the TCEQ documented that Mr. Watts failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data, to the TCEQ by July 1 of each year. Specifically, Mr. Watts did not mail or directly deliver the CCRs to the water system's customers for the years 2000 through 2006, nor did Mr. Watts submit the CCRs or the required certification to the TCEQ for the years 2000 through 2006.
4. Mr. Watts received notice of the violation on or about April 5, 2008.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Allen Watts dba Lago Vista Water System" (the "EDPRP") in the TCEQ Chief Clerk's office on September 11, 2008.
6. By letter dated on September 11, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Watts with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Watts received notice of the EDPRP.
7. More than 20 days have elapsed since Mr. Watts received notice of the EDPRP, provided by the Executive Director. Mr. Watts failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Watts is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Watts failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data, to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Watts with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 7, Mr. Watts has failed to file a timely answer to the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Watts and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Watts for violations of the Texas Water

Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of two thousand sixty-eight dollars (\$2,068.00) 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).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Watts is assessed an administrative penalty in the amount of two thousand sixty-eight dollars (\$2,068.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Mr. Watts' compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Allen Watts dba Lago Vista Water System; Docket No. 2008-0977-PWS-E" to:

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

2. Mr. Watts shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Watts shall:

- i. Mail or directly deliver a copy of the 2007 CCR to all bill paying customers of the water system and make a good faith effort to deliver a copy of the 2007 CCR to all non-bill paying consumers of the water system, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274; and
- ii. Submit to the Commission a copy of the 2007 CCR provided to customers of the water system and the certification that the CCR has been distributed to the customers of the water system and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and the certification shall be mailed to:

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

- b. Within 45 days after the effective date of this Order, Mr. Watts shall submit written certification as described below, and include detailed supporting documentation including photocopies, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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.”

- c. Mr. Watts shall submit copies of the certification and documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and

Tom Haberle, Water Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Rd.
San Antonio, TX 78233-4480

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Watts. Mr. Watts 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 Mr. Watts shall be made in writing to the Executive Director. Extensions are not effective until Mr. Watts receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Watts if the Executive Director determines that Mr. Watts has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Allen Watts dba Lago Vista Water System” (the “EDPRP”) with the Office of the Chief Clerk on September 11, 2008.

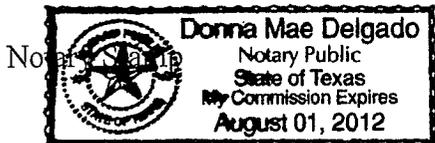
I sent the EDPRP to Mr. Watts at his last known address on September 11, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Watts received notice of the EDPRP. Mr. Watts failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

Peipey Tang
Peipey Tang
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 7th day of November, A.D., 2008.



Donna Mae Delgado
Notary Signature