

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1590-WOC-E TCEQ ID: RN105325534 CASE NO.: 34716
RESPONDENT NAME: ALLAN WATTS

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 HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" 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 system

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions 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 June 23, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

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

TCEQ Regional Contact: Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 403-4050

Respondent: Mr. Allan Watts, RR 2, Box 6, Luling, Texas 78648

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 checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 2, 2007</p> <p>Date of NOE Relating to this Case: September 24, 2007</p> <p>Background Facts: The EDP RP was filed on February 10, 2009, 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 EDFARP was filed on April 1, 2009, 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 file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Respondent is not yet in compliance. Respondent owes \$5,273.85 in past-due fees.</p> <p>PWS:</p> <ol style="list-style-type: none"> Failed to have a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water [30 TEX. ADMIN. CODE § 30.381(b), TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034(b)]. Failed to pay all outstanding Water Quality Violation fees, including any interest and penalties, for TCEQ Financial Administration Account No. 23600236 in a timely manner [30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702]. 	<p>Initial Calculated Penalty: \$1,550</p> <p>Total Assessed: \$1,550</p> <p>Total Deferred: \$0</p> <p><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: \$1,550</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 Order.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</p> <p>Major Source: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, pay all outstanding fees, including any associated penalties and interest. Within 60 days, obtain a valid, effective public water system operator license from the Commission or cease performing process control duties for the production and distribution of drinking water. Within 75 days, submit written certification demonstrating compliance.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	24-Sep-2007	Screening	28-Sep-2007	EPA Due	
	PCW	1-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Allen Watts
Reg. Ent. Ref. No.	RN105325534
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34716	No. of Violations	2	
Docket No.	2007-1590-WOC-E	Order Type	Findings	
Media Program(s)	All Occupational Licenses	Enf. Coordinator	Rebecca Clausewitz	
Multi-Media		EC's Team	EnforcementTeam 2	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$2,500

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	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes No compliance history enhancements are recommended because the Respondent has no prior Notices of Violation or Orders.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$316	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$300	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	24%	Adjustment	\$300
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount	\$1,550
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,550
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DEFERRAL	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 offered with non-expedited cases.

PAYABLE PENALTY	\$1,550
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Screening Date 28-Sep-2007

Docket No. 2007-1590-WOC-E

PCW

Respondent Allen Watts

Policy Revision 2 (September 2002)

Case ID No. 34716

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN105325534

Media [Statute] All Occupational Licenses

Enf. Coordinator Rebecca Clausewitz

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
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 judgements 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%
<i>Please Enter Yes or No</i>			
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) 0%

>> **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

No compliance history enhancements are recommended because the Respondent has no prior Notices of Violation or Orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 28-Sep-2007	Docket No. 2007-1590-WOC-E	PCW		
Respondent Allen Watts		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 34716		<i>PCW Revision September 19, 2007</i>		
Reg. Ent. Reference No. RN105325534				
Media [Statute] All Occupational Licenses				
Enf. Coordinator Rebecca Clausewitz				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 30.381(b), Tex. Water Code § 37.003, and Tex. Health & Safety Code § 341.034(b)			
Violation Description	Failed to have a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water. Specifically, the Respondent was found to be operating Lago Vista Water System and has never held a license to operate a public water system.			
	Base Penalty	\$2,500		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	0%	
Matrix Notes	Failing to have the required license to operate the water system could result in improper operation of the water system and improper treatment of the water which could cause customers of the water system to be exposed to significant amounts of contaminants at levels that are protective of human health.			
	Adjustment	\$1,875		
			\$625	
Violation Events				
	Number of Violation Events	2	Number of violation days	
		57		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty \$1,250	
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
	Two monthly events are recommended, calculated from the date of the investigation, August 2, 2007, to the date of case screening, September 28, 2007.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$316	Violation Final Penalty Total	\$1,550	
		This violation Final Assessed Penalty (adjusted for limits)	\$1,550	

Economic Benefit Worksheet

Respondent: Allen Watts

Case ID No.: 34716

Reg. Ent. Reference No.: RN105325534

Media: All Occupational Licenses

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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	2-Aug-2007	28-Sep-2007	1.1	\$16	\$300	\$316
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount for training and exams needed to obtain a Class D water system operator license, calculated from the date of the investigation to the screening date.

Approx. Cost of Compliance

\$300

TOTAL

\$316

Screening Date 28-Sep-2007	Docket No. 2007-1590-WOC-E	PCW
Respondent Allen Watts	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34716	<i>PCW Revision September 19, 2007</i>	
Reg. Ent. Reference No. RN105325534		
Media [Statute] All Occupational Licenses		
Enf. Coordinator Rebecca Clausewitz		

Violation Number	2
Rule Cite(s)	30 Tex. Admin. Code § 21.4 and Tex. Water Code § 5.702
Violation Description	Failed to pay all outstanding Water Quality Violation fees, including any interest and penalties, in a timely manner. Specifically, TCEQ Financial Administration Account No. 23600236 has overdue penalties and associated late fees that are outstanding.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>		<input style="width: 40px;" type="text"/>
Potential	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>	Percent <input style="width: 40px;" type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>	
	Percent <input style="width: 40px;" type="text" value="0%"/>				
Matrix Notes	<input style="width: 100%; height: 100%;" type="text"/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input style="width: 95%;" type="text"/>
	monthly	<input style="width: 95%;" type="text"/>
	quarterly	<input style="width: 95%;" type="text"/>
	semiannual	<input style="width: 95%;" type="text"/>
	annual	<input style="width: 95%;" type="text"/>
	single event	<input style="width: 95%;" type="text"/>

Violation Base Penalty

All penalties and interest will be assessed at the next billing cycle by the Financial Administration Division.

Economic Benefit (EB) for this violation	Statutory Limit Test
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Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Allen Watts

Case ID No.: 34716

Reg. Ent. Reference No.: RN105325534

Media: All Occupational Licenses

Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN601358740 WATTS, ALLEN	Classification:	Rating:
Regulated Entity:	RN105325534 ALLEN WATTS	Classification:	Site Rating:
<hr/>			
ID Number(s):	<hr/>		
Location:	1918 S STATE HIGHWAY 80, LULING, TX, 78648		
<hr/>			
TCEQ Region:	REGION 13 - SAN ANTONIO		
<hr/>			
Date Compliance History Prepared:	September 28, 2007		
<hr/>			
Agency Decision Requiring Compliance History:	Enforcement		
<hr/>			
Compliance Period:	September 28, 2002 to September 28, 2007		
<hr/>			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Rebecca Clausewitz</u>	Phone:	<u>(210) 403-4012</u>

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

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

- 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 09/20/2007 (593475)

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

- 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
ALLAN WATTS;
RN105325534

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-1590-WOC-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7, 26, and 37, 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 Allan Watts ("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 system located at 1918 S. State Highway 80, Luling, Guadalupe County, Texas (the "Facility").
2. Mr. Watts performs control duties in production or distribution of drinking water for a public water system. Therefore, Mr. Watts is subject to TCEQ jurisdiction pursuant to TEX. HEALTH & SAFETY CODE ch. 341, and TEX. WATER CODE chs. 5, 7, 26, and 37.
3. During a compliance investigation conducted on August 2, 2007, a TCEQ San Antonio Regional Office investigator documented that Mr. Watts:
 - a. Failed to have a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water; and
 - b. Failed to pay all outstanding Water Quality fees, including any interest and penalties, for TCEQ Financial Administration Account No. 23600236 in a timely manner.
4. Mr. Watts received notice of the violations on or about September 24, 2007.

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 Allan Watts" (the "EDPRP") in the TCEQ Chief Clerk's office on February 10, 2009. The Executive Director filed the "Executive Director's First Amended 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 Allan Watts" (the "EDFARP") in the TCEQ Chief Clerk's office on April 1, 2009
6. By letter dated February 10, 2009, 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. By letter dated April 1, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Watts with notice of the EDFARP. 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 EDFARP.
7. More than 20 days have elapsed since Mr. Watts received notice of the EDPRP and the EDFARP, provided by the Executive Director. Mr. Watts failed to file an answer to the EDPRP and the EDFARP, 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. WATER CODE chs. 5, 7, 26, and 37, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Watts failed to have a valid, effective public water system operator license issued by the Commission prior to performing process control duties for the production and distribution of drinking water, in violation of 30 TEX. ADMIN. CODE § 30.381(b), TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Watts failed to pay all outstanding Water Quality fees, including any interest and penalties, for TCEQ Financial Administration Account No. 23600236 in a timely manner, in violation of 30 TEX. ADMIN. CODE § 21.4 and TEX. WATER CODE § 5.702

4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Watts with proper notice of the EDPRP and the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Mr. Watts failed to file a timely answer to the EDPRP and the EDFARP, 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.
6. 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.
7. An administrative penalty in the amount of one thousand five hundred fifty dollars (\$1,550.00) 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.
8. 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 one thousand five hundred fifty dollars (\$1,550.00) for violations of the Texas Health & Safety Code, the Texas Water Code, and the 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: Allan Watts; Docket No. 2007-1590-WOC-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, pay all outstanding fees, including any associated penalties and interest and with the notation "Allen Watts; TCEQ FA Account No. 23600236" 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

- b. Within 60 days after the effective date of this Order, Mr. Watts shall obtain a valid, effective public water system operator license from the Commission or cease performing process control duties for the production and distribution of drinking water, as required by with 30 TEX. ADMIN. CODE § 30.381(b), TEX. WATER CODE § 37.003, and TEX. HEALTH & SAFETY CODE § 341.034(b); and
- c. Within 75 days after the effective date of this Order, Mr. Watts shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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."

Mr. Watts shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

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

with a copy to:

Tom Haberle, Water Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Rd.
San Antonio, Texas 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 RUDY CALDERON

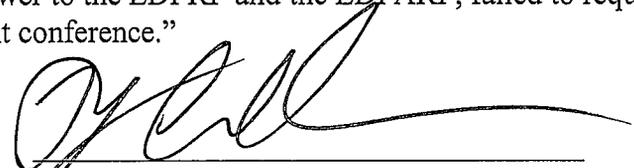
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Rudy Calderon. 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, 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 Allan Watts” (the “EDPRP”) was filed with the Office of the Chief Clerk on February 10, 2009. The “Executive Director’s First Amended 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 Allan Watts” (the “EDFARP”) was filed with the Office of the Chief Clerk on April 1, 2009.

The EDPRP was mailed to Mr. Watts at his last known address on February 10, 2009, 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 that Mr. Watts received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2). The EDFARP was mailed to Mr. Watts at his last known address on April 1, 2009, 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 that Mr. Watts received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

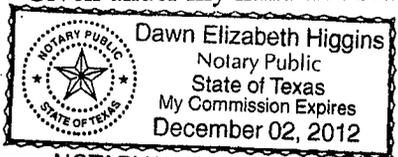
More than 20 days have elapsed since Mr. Watts received notice of the EDPRP and the EDFARP. Mr. Watts failed to file an answer to the EDPRP and the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”

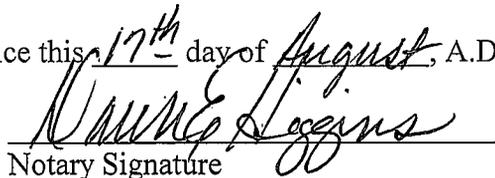


Rudy Calderon, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 17th day of August, A.D., 2009.


NOTARY WITHOUT BOND



Notary Signature