

**CAPTION: Docket No. 2010-1427-PWS-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Las Palomas Water Services Company dba Lake Valley Water Company, Inc. in Wilson County; RN101278521; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Amanda Henry, Laurie Eaves)**

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2010-1427-PWS-E **TCEQ ID:** RN101278521 **CASE NO.:** 40301**RESPONDENT NAME:** Las Palomas Water Services Company dba Lake Valley Water Company, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input checked="" type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Lake Valley Water Company, located approximately five miles east of La Vernia on Farm-to-Market Road 539, Wilson County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> Along with the ED and the Respondent, five persons have expressed an interest in this matter. Mr. William W. Wheeler; Ms. Louise Hanna; Mr. Don Williams and Mrs. Lanna Williams; Mr. Michael Downey; Ms. Melissa Marroquin.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 14, 2011. Comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Hank Harenberg, Member, Lake Valley Water Company, Inc., 4040 Broadway, Suite 609, San Antonio, Texas 78209  Mr. Carl R. Oliver, Registered Agent, Lake Valley Water Company, Inc., 4040 Broadway, Suite 609, San Antonio, Texas 78209  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2010-1427-PWS-E

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 27, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 6, 2010 (NOE)</p> <p><b>Background Facts:</b> This was an enforcement follow-up.</p> <p><b>WATER</b></p> <p>Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(a)(1)].</p>	<p><b>Total Assessed:</b> \$392</p> <p><b>Total Deferred:</b> \$78  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$314</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 180 days after the effective date of this Agreed Order, provide a minimum well capacity of 0.6 gpm per connection; and</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS Registration 2470020

# TCEQ Interoffice Memorandum

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**To:** Bryan W. Shaw, Ph.D., Chairman  
Carlos Rubinstein, Commissioner  
Buddy Garcia, Commissioner  
Les Trobman, General Counsel

**Thru:** *AMB* Anna Brulloths, Manager Enforcement Division

**From:** *BKS* Bryan Sinclair, Director, Enforcement Division

**Date:**

**Subject:** Response to Comment Received Concerning Proposed Agreed Enforcement Order  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
RN101278521; Public Water Supply ID No. 2470020  
Docket No. 2010-1427-PWS-E; Enforcement Case No. 40301

In response to a publication in the Texas Register on February 11, 2011, five comments have been received regarding a proposed agreed enforcement order requiring certain actions of Las Palomas Water Services Company dba Lake Valley Water Company, Inc. The comments were received within the thirty-day public comment period.

The proposed order resolves a violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(a)(1) for failing to provide a well capacity of 0.6 gallons per minute ("gpm") per connection. TCEQ staff and Las Palomas Water Services Company dba Lake Valley Water Company, Inc. agreed on the terms of the proposed order on January 18, 2011. The violation was documented during a record review conducted on July 27, 2010. The order would assess a Three Hundred Ninety-Two Dollar (\$392) penalty of which Seventy-Eight Dollars (\$78) is deferred in accordance with the expedited order process.

A copy of the comments, and the staff response to the comments, are attached for your consideration. In summary, the commentators are expressing concerns regarding water restrictions that the water system has had in place for over a year due to a deficient well capacity. Staff's position, as reflected in the response, is that an agreement has been reached and that Las Palomas Water Services Company dba Lake Valley Water Company, Inc. will be required to provide a well capacity of 0.6 gpm per connection within 180 days after the effective date of the agreed order. Accordingly, the Enforcement Division recommends that you adopt this proposed order.

## **Attachments**

cc: Lynn Bumguardner, Manager, Water Section, San Antonio Regional Office,  
TCEQ, MC -R-13  
Amanda Henry, Coordinator, Enforcement Division  
Central Records, MC 213, Building E, 1st Floor, ID No. 2470020  
Enforcement Division Reader File

TCEQ Amanda Henry -- Austin Fax: 512-239-2550, Houston Fax: 713-422-8963  
Agreed Order ( Docket Number: 2010-1427-PWS-E ).

March 12, 2011

Amanda Henry / Sandy Van Cleave, Work Leader  
Enforcement Division

Texas Commission on Environmental Quality

[Sandy.Vancleave@tceq.texas.gov](mailto:Sandy.Vancleave@tceq.texas.gov)

(512) 239-2670 ;

(512) 239-4562 (fax)

I am writing this in response to the understanding that I have, regarding the property owners / residents / customers, of the Las Palamos Water Services Company dba Lake Valley Water Company, Inc., to submit comments regarding our service issues. I purchased my home in December of 2009 and since that time we have been under a mandate from the operators of the water company that basically no outside water use is permitted. While in the process of purchasing my home in this area, I looked at several homes within the subdivision and although I repeatedly asked our realtor questions regarding water service I was never told of the ongoing problems that existed. There are actually over 100 families presently connected and I question whether Lake Valley is actually able to sustain a minimum of 0.6 gpm per connection without imposing the restrictions they have had in place for quite some time. I'm not sure they can maintain 0.6 even with the restrictions. Who measures and verifies this?

My concerns which include the consistent delivery of "potable" water also include "Quality of Life" issues which having invested a significant amount of money into a home should allow all of us the ability to have and maintain a lawn, plants, trees, and a garden if we so choose.

The present well, based on casing size & pump delivery, is more consistent with a single family home, than 100 homes. I have and do own other properties that required a well.

I have been involved with video surveys and discussions of whether the original Lake Valley well, that failed, could be repaired so I am familiar with what the current situation is. The only reason we have continuous water at this point is the use of a storage tank and the severe water restrictions as well as the season of the year. Many families have lawns, plants, etc, and I seriously doubt their wiliness' to lose that investment, as we approach summer, by not watering. This will again severely tax the water supply and may once again result in unacceptable water quality or no water at all.

I doubt that the low dollar fines being levied are much more than an irritant to the owners of the water company and do nothing to resolve the issues of digging a new well.

At least one of these gentlemen, Hank Harenberg, owns

**The Capitol Group**

**Phone: (505) 298-3900 Fax: (505) 298-0410**

**P.O. Box 14744**

**Albuquerque, New Mexico 87191-4744**

Their reported annual sales are in the 1 to 2.5 million dollar range. It would seem as though these men have the means to provide the homeowners and customers of Lake Valley Water with sufficient water. I don't know whether Bob Wilson is also a partner in this business.

Several homeowners have the means and have had personal wells dug to resolve their problems. This is not an option for everyone and it shouldn't need to be. This situation has existed long enough. The owners have been promising a new well will be dug for the last 18 months or more. Fines won't get us water. We need the State of Texas to use their governmental powers to find an enforceable sustainable solution to this problem.

Thank You,

William W. Wheeler

139 Champions Blvd.

La Vernia, Texas 78121

830-947-3365

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 8, 2011

Mr. William W. Wheeler  
139 Champions Boulevard  
La Vernia, Texas 78121

Re: Comment Received, Proposed Agreed Enforcement Order  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
RN101278521; Public Water Supply ID No. 2470020  
Docket No. 2010-1427-PWS-E; Enforcement Case No. 40301

Dear Mr. Wheeler:

On March 12, 2011, we received your letter concerning the proposed agreed enforcement order for the Las Palomas Water Services Company dba Lake Valley Water Company, Inc. ("the Respondent") in Wilson County, Texas. I have forwarded your letter to our San Antonio Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and the Respondent agreed on the terms of the proposed order on January 18, 2011. Accordingly, the Respondent was assessed, and has paid, an administrative penalty of Three Hundred Ninety-Two Dollars (\$392), of which Seventy-Eight Dollars (\$78) has been deferred in accordance with our expedited order process. The Respondent has paid Three Hundred Fourteen Dollars (\$314) of the administrative penalty.

You indicated in your letter that water restrictions have been in place since you purchased your home in December 2009 and you have a concern that the Respondent will not be able to maintain a minimum well capacity of 0.6 gallons per minute per connection.

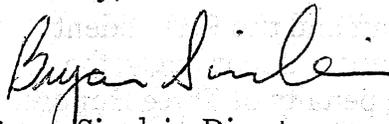
The technical requirements in the proposed agreed order require the Respondent to begin providing a well capacity of 0.6 gallons per minute within 180 days after the effective date of the agreed order. If the Respondent complies with the order, this action should allow the Respondent to lift the water restrictions that are currently in place. However, if the Respondent fails to comply with the technical requirements in the proposed agreed order, additional enforcement options may be initiated, including but

Mr. William Wheeler  
Page 2

not limited to, seeking injunctive relief from the Office of the Attorney General ("OAG") requiring the Respondent to comply with the proposed agreed order and/or pursue an alternative water supply source or an emergency interconnect with another water system. Please note that the owner of the water system is a company named Las Palomas Water Services Company. The Capitol Group does not own and is not affiliated with Lake Valley Water Company, Inc. so their reported annual sales are irrelevant to this enforcement action.

We appreciate your input into the enforcement action currently pending against the Respondent. A date has not been selected for consideration of an upcoming Commissioner's Agenda; however, your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it at a future agenda date. Ms. Amanda Henry is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Henry at (713) 767-3672. For complaints related to the Respondent's current operating conditions or procedures, you should continue to contact our San Antonio Regional Office at (210) 490-3096.

Sincerely,



Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BS/ah

cc: Mr. Les Trobman, General Counsel, TCEQ  
Mr. Blas Coy, Public Interest Counsel, TCEQ  
Ms. LaDonna Castañuela, Chief Clerk, TCEQ  
Ms. Lynn Bumguardner, Manager, Water Section, San Antonio Regional Office, TCEQ

letter

March 10, 2011  
Sandy Vancleave  
Amanda Henry  
TCEQ

Re: Las Palamos Water Services Co dba Lake Valley Water Co., Inc

Memo to TCEQ:

I wish to express my feelings regarding the above company. We purchased this property approximately 4 years ago. After moving from the Houston, Texas area where grass grows freely, we built our home and was establishing ourselves here. More than a year ago, things changed and we became "hostage" to the above company. For this length of time, we have tried to be patient and listen to their story of "money coming in". Meanwhile we are living in a \$200,000.00 home but can not use our dish washer because we need to conserve the water to put on plants, trees, and anything we want to continue to grow. I hand wash all my dishes to do this. Our washing machine water is drained into 55 gallon barrels for watering. We installed guttering on back side of our home to 55 gallon drums for watering. So the only water that goes thru our septic system is commode and shower water. I am considering the option of standing in a tub and taking the water outside but my back has about had enough. I am a retired 63 year old lady and expected a "better retirement life". Our home is lien free so we have no mortgage company to "cry to".

We have paid our monthly bill in full in a timely manner each month. We paid a deposit to connect to this water system. We feel like we have followed ALL THE RULES and still we can do nothing. A large number of us have considered putting money together and paying for the well to be drilled but after research there are too many parasites to this water system.

We have considered suing but that is already being done. We have spoken to S S Water company but there are rules & regulations involved that they honor.

So my question to you is--how long before enough is enough and YOU ENFORCE and make them either give the company away or install another well. You are the maker and enforcer of the laws. We are customers should have some RIGHTS. WHAT ARE THEY?????

This past year the Wilson County Appraisal district automatically gave a 10% cut on property taxes due to this condition. You bet I will be there asking for a discount this next year. I would rather have things functioning properly so I wouldn't have to but I will. Realitors say our property is not selling because of this situation. If I send 10,000 to 13,000, I am only benefitting myself--not the neighborhood. The prices of real estate is on the decline so I feel I can not put that amount of money into the property.

Again I say I have NEVER been in a situation that an answer could not be found but I feel helpless in this situation.

Sincerely  
Louise Hanna  
724 Lake Valley Dr  
La Vernia, Tx 78121  
830-947-9103

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 8, 2011

Ms. Louise Hanna  
724 Lake Valley Drive  
La Vernia, Texas 78121

Re: Comment Received, Proposed Agreed Enforcement Order  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
RN101278521; Public Water Supply ID No. 2470020  
Docket No. 2010-1427-PWS-E; Enforcement Case No. 40301

Dear Ms. Hanna:

On March 10, 2011, we received your letter concerning the proposed agreed enforcement order for the Las Palomas Water Services Company dba Lake Valley Water Company, Inc. ("the Respondent") in Wilson County, Texas. I have forwarded your letter to our San Antonio Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and the Respondent agreed on the terms of the proposed order on January 18, 2011. Accordingly, the Respondent was assessed, and has paid, an administrative penalty of Three Hundred Ninety-Two Dollars (\$392), of which Seventy-Eight Dollars (\$78) has been deferred in accordance with our expedited order process. The Respondent has paid Three Hundred Fourteen Dollars (\$314) of the administrative penalty.

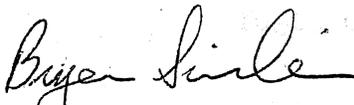
You indicated in your letter that water restrictions have been in place for over one year. You also questioned when is the TCEQ going to enforce and make the Respondent give the water system away or install another well.

The technical requirements in the proposed agreed order require the Respondent to begin providing a well capacity of 0.6 gallons per minute within 180 days after the effective date of the agreed order. If the Respondent complies with the order, this action should allow the Respondent to lift the water restrictions that are currently in place. However, if the Respondent fails to comply with the technical requirements in the proposed agreed order, additional enforcement options may be initiated, including but not limited to, seeking injunctive relief from the Office of the Attorney General ("OAG") requiring the Respondent to comply with the proposed agreed order and/or pursue an alternative water supply source or an emergency interconnect with another water system.

Ms. Louise Hanna  
Page 2

We appreciate your input into the enforcement action currently pending against the Respondent. A date has not been selected for consideration of an upcoming Commissioner's Agenda; however, your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it at a future agenda date. Ms. Amanda Henry is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Henry at (713) 767-3672. For complaints related to the Respondent's current operating conditions or procedures, you should continue to contact our San Antonio Regional Office at (210) 490-3096.

Sincerely,



Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BS/ah

cc: Mr. Les Trobman, General Counsel, TCEQ  
Mr. Blas Coy, Public Interest Counsel, TCEQ  
Ms. LaDonna Castañuela, Chief Clerk, TCEQ  
Ms. Lynn Bumguardner, Manager, Water Section, San Antonio Regional Office,  
TCEQ

From: Don & Lanna Williams

March 6, 2011

To: Amanda Henry, Enforcement Coordinator, Texas Commission on Environmental Quality

Subject: Public Comment on Las Palamos Water Services Company dba Lake Valley Water Company, Inc.

Docket No: 2010-1427-PWS-E

My wife and I built a home in Quail Run Estates, and moved in Feb of 2009. The above water company supplies the water for our sub-division and a couple of others—with about 105 hook ups. The primary well of this company has been down since Sept/Oct of 2009! There was an attempt to find and correct the problem at the beginning of 2010 by sending down a camera. It was found that one of the well cases had a hole, and it was determined to drill a new well rather than repair the old well due to the high cost of the repair. For some reason it was July 27<sup>th</sup> of 2010 before TECQ issued a notice of violation. As of this letter, it has been around 17-18 months since the primary well has been down, and approximately 12-13 months since it was determined to drill a new well. I have been in constant contact with Hank Harenberg, one of the water company owners. He seems very sincere when talking about the well problems, but he says they do not have the money to drill a new well. He also realizes and has stated he and his co-owner should not be in the water business! They also had Malcolm Bailey of Houston, TX build a waste water treatment plant to accommodate nine homes that are also on this water system. This treatment plant has not been turned on, so the sewage from these homes is collected in an underground storage tank that is pumped out by another company. The cost to pump this tank is approximately \$1500 to \$2000 per month. This amount is paid with **LAKE VALLEY WATER COMPANY, INC.** money!! What is wrong with this picture???

The customers of Lake Valley Water have been on water restrictions since spring of 2010. We have all lost shrubs, grass, flowers, and newly planted trees. Some residents own swimming pools that have been damaged due to lack of water. Fortunately, the secondary well has not gone down for any reason. There have been a couple of water line brakes/leaks which resulted in residents having no water at all. Numerous home owners have drilled their own wells at a cost of approximately \$10,000.00. This should not be an expense for any homeowner who built or purchased a home in this area expecting to have their water supplied by Lake Valley Water Company, Inc.

Homeowners are tired of no action/progress with our water problem! Having TECQ fine this company the little amount they did, and giving them 30 days to correct the problem is a waste of time. From what I was told by Amanda Henry—the only thing that will happen when the problem is still not corrected, is the water company will get a bigger fine. So what? If they can't come up with the money to drill a new well, they wouldn't be able to pay a big fine. What is TECQ's next step? At what point does TECQ/SOS step-up and look after the homeowners? Can you force an emergency hookup or turn the water system over to another company?

There is one other concern we have! There are a couple of new homes being built in this area. One has already drilled a well, but the other is hooking up to this water system. There has also been talk about an individual who is trying to buy and reopen the golf course in this area. The tees, fairways, and greens are on a different well located on the golf course property, but the club house, with bathrooms and restaurant, is on this water system. When I checked with Chris Friesenhan, investigator for TCEQ—San Antonio, he stated that according to the Austin office there were no restrictions on future hook ups to the system whether it be a home or business. That just does not make sense! We are on a water restriction due to low volume of water at each meter, and the TECQ hasn't got a problem with new hook ups. **THAT IS JUST WRONG!!**

*Don Williams Lanna Williams*

Don & Lanna Williams, Home Owners

214 Champions Blvd

La Vernia, TX 78121

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 8, 2011

Mr. Don Williams  
Mrs. Lanna Williams  
214 Champions Boulevard  
La Vernia, Texas 78121

Re: Comment Received, Proposed Agreed Enforcement Order  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
RN101278521; Public Water Supply ID No. 2470020  
Docket No. 2010-1427-PWS-E; Enforcement Case No. 40301

Dear Mr. and Mrs. Williams:

On March 7, 2011, we received your letter concerning the proposed agreed enforcement order for the Las Palomas Water Services Company dba Lake Valley Water Company, Inc. ("the Respondent") in Wilson County, Texas. I have forwarded your letter to our San Antonio Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and the Respondent agreed on the terms of the proposed order on January 18, 2011. Accordingly, the Respondent was assessed, and has paid, an administrative penalty of Three Hundred Ninety-Two Dollars (\$392), of which Seventy-Eight Dollars (\$78) has been deferred in accordance with our expedited order process. The Respondent has paid Three Hundred Fourteen Dollars (\$314) of the administrative penalty.

You indicated in your letter that water restrictions have been in place since spring 2010 due to the primary well being taken out-of-service. You also stated in your letter the following concerns: Sewage is being collected from homes and pumped to an underground holding tank and that the Respondent is paying another company to have the sewage pumped from the holding tank. The Respondent's fine is minimal and giving the Respondent 30 days to correct the problem is a waste of time. The Respondent is connecting other homes and possibly a golf course restaurant and clubhouse to the water system.

The technical requirements in the proposed agreed order require the Respondent to begin providing a well capacity of 0.6 gallons per minute within 180 days after the effective date of the agreed order. If the Respondent complies with the order, this action should allow the Respondent to lift the water restrictions that are currently in place. However, if the Respondent fails to comply with the technical requirements in the proposed agreed order, additional enforcement options may be initiated, including but

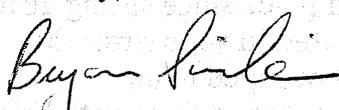
Mr. and Mrs. Don Williams  
Page 2

not limited to, seeking injunctive relief from the Office of the Attorney General ("OAG") requiring the Respondent to comply with the proposed agreed order and/or pursue an alternative water supply source or an emergency interconnect with another water system. In regards to the penalty amount assessed against the Respondent, the penalty was calculated in accordance with TCEQ's penalty policy and under the statutory authorization amounts listed in Texas Health & Safety Code Chapter 341.

The proposed agreed order is not related to any violations involving the sewage in the holding tank nor does the TCEQ have any moratorium on future hook-ups to the distribution system. The TCEQ has a current case in litigation regarding the sewage in the holding tank which you are referencing. If you need further information regarding the sewage holding tank, please contact Mr. Gary Shiu, Staff Attorney at (713) 422-8916 and reference case no. 40373. Please note that moratoriums on future hook-ups will only be addressed through the issuance of a Commission Emergency Order or as an action by the OAG.

We appreciate your input into the enforcement action currently pending against the Respondent. A date has not been selected for consideration of an upcoming Commissioner's Agenda; however, your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it at a future agenda date. Ms. Amanda Henry is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Henry at (713) 767-3672. For complaints related to the Respondent's current operating conditions or procedures, you should continue to contact our San Antonio Regional Office at (210) 490-3096.

Sincerely,



Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BS/ah

cc: Mr. Les Trobman, General Counsel, TCEQ  
Mr. Blas Coy, Public Interest Counsel, TCEQ  
Ms. LaDonna Castañuela, Chief Clerk, TCEQ  
Ms. Lynn Bumguardner, Manager, Water Section, San Antonio Regional Office,  
TCEQ

Sandy Van Cleave, Work Leader  
Enforcement Division  
Texas Commission on Environmental Quality  
[Sandy.Vancleave@tceq.texas.gov](mailto:Sandy.Vancleave@tceq.texas.gov)  
(512) 239-2670  
(512) 239-4562 (fax)

Ms Van Cleave or TECQ representative,

I am one of the homeowners being serviced by the Lake Valley Water Co. and to say I am dissatisfied with their performance would be a gross understatement. We have been subjected to water rationing for over a year now with no relief in sight. My brand new lawn and landscaping I put in my back yard is pretty much a total loss at a cost of over \$3k. Needless to say I am not a happy camper. The mismanagement of the wells by the owners and their agents is so egregious that I have been considering moving out of the subdivision to another that has a dependable water system. My fellow homeowners and I have been waiting for some relief from this problem for far too long. Not being able to water, top off my pool, and wash my car are simple and fundamental tasks that I have been deprived of for over a year now. What can the TECQ do to help us out? Fines and censuring the owners seem to have no effect. All we have are promises, which do not be kept, scheduled start dates for repairs that never get done and just terrible water usage conditions.

I welcome any dialogue that results in putting this matter to rest. Please feel free to contact me if you need further details at [mwd\\_79@yahoo.com](mailto:mwd_79@yahoo.com)

Thank you for your time



Michael Downey  
144 Las Palomas Dr  
La vernia Texas 78148

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 8, 2011

Mr. Michael Downey  
144 Las Palomas Drive  
La Vernia, Texas 78148

Re: Comment Received, Proposed Agreed Enforcement Order  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
RN101278521; Public Water Supply ID No. 2470020  
Docket No. 2010-1427-PWS-E; Enforcement Case No. 40301

Dear Mr. Downey:

On March 11, 2011, we received your letter concerning the proposed agreed enforcement order for the Las Palomas Water Services Company dba Lake Valley Water Company, Inc. ("the Respondent") in Wilson County, Texas. I have forwarded your letter to our San Antonio Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

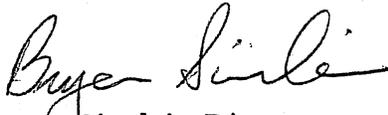
Texas Commission on Environmental Quality ("TCEQ") staff and the Respondent agreed on the terms of the proposed order on January 18, 2011. Accordingly, the Respondent was assessed, and has paid, an administrative penalty of Three Hundred Ninety-Two Dollars (\$392), of which Seventy-Eight Dollars (\$78) has been deferred in accordance with our expedited order process. The Respondent has paid Three Hundred Fourteen Dollars (\$314) of the administrative penalty.

You indicated in your letter that water restrictions have been in place for over one year. The technical requirements in the proposed agreed order require the Respondent to begin providing a well capacity of 0.6 gallons per minute within 180 days after the effective date of the agreed order. If the Respondent complies with the order, this action should allow the Respondent to lift the water restrictions that are currently in place. However, if the Respondent fails to comply with the technical requirements in the proposed agreed order, additional enforcement options may be initiated, including but not limited to, seeking injunctive relief from the Office of the Attorney General ("OAG") requiring the Respondent to comply with the proposed agreed order and/or pursue an alternative water supply source or an emergency interconnect with another water system.

Mr. Downey  
Page 2

We appreciate your input into the enforcement action currently pending against the Respondent. A date has not been selected for consideration of an upcoming Commissioner's Agenda; however, your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it at a future agenda date. Ms. Amanda Henry is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Henry at (713) 767-3672. For complaints related to the Respondent's current operating conditions or procedures, you should continue to contact our San Antonio Regional Office at (210) 490-3096.

Sincerely,



Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BS/ah

cc: Mr. Les Trobman, General Counsel, TCEQ  
Mr. Blas Coy, Public Interest Counsel, TCEQ  
Ms. LaDonna Castañuela, Chief Clerk, TCEQ  
Ms. Lynn Bumguardner, Manager, Water Section, San Antonio Regional Office, TCEQ

512-239-0134

**JUNO** Message Center**From:** william marroquin <melissa.marroquin@lvschools.net>**To:** "clayhanna@juno.com" <clayhanna@juno.com>**Sent:** Fri, Mar 11, 2011 09:22 AM**Subject:** RE: Las Palamos Water Services Company**RECEIVED**

MAR 16 2011

ENFORCEMENT DIVISION

Please forward this letter on my behalf. Thanks so much!

2010-1427 - PWS-E . pdf

Dear Sir or Ma'am,

I am a resident who has water service through Lake Valley Water Company. I along with my neighbors have been dealing with water issues for over a year now. Not only have we been on restrictions about outdoor watering when there is no drought but we have also been with out drinking water and bathing water numerous times. In January 2010 for example I was without water for nearly a week. When I did get water it would come in dirty brown/black/orange bursts. Because of the air in the lines and the bursting dirty water I had to replace a water heater and a washing machine. The washing machine was turned off and a burst of air and dirty water blasted through it and broke the line and leaked all over my floor and ruined my laminate flooring. During this week of water issues my family had to buy water from the store to cook, drink, bathe, and water animals that the children had for 4-H. These kind of things happening are common to many people in the subdivision.

I would like you to put yourself in our situation and try boiling water on the stove to bathe your family and yourself before going to work in the morning, or bother someone else to go to their house and take a shower, or rent a hotel room to take a shower. Does this sound reasonable to you? Because if you ask members of this subdivision if they had to do these things more than once in the past year they will say it has happened to them on multiple occasions. The fine that is being imposed on the water company is probably less than one families expense for driving back and forth all over the county to take a bath and refill water containers.

This water company has had a long history of not following the rules. If the fines cost less than the repairs then they are going to just keep taking the fines. Unless someone forces them to give up the water company I think they are going to just keep stringing people along like they did with the septic lines near the golf course.

People of Lake Valley are tired of getting brushed off by this company and they need to fix the well properly.

Thank you for your time.

Melissa Marroquin

Lake Valley resident

**From:** clayhanna@juno.com [mailto:clayhanna@juno.com]**Sent:** Thursday, March 10, 2011 9:26 PM**To:** rmege@swri.org; mwd\_79@yahoo.com; denaf@hotmail.com; shirleygrammer@aol.com; rhendrickson@lavernia.net; Mellssa Marroquin; alamossepticdesigns1@netzero.com; ahenry@tceq.state.tx.us; jmoore318@lavernia.Net; troyf68@yahoo.com; nicbru@msn.com; GAPLUCERO@YAHOO.COM; ccochran@gvec.net; sshschild@gmail.com; ruthsanchez\_99@yahoo.com; grayrover@yahoo.com**Subject:** FW: Las Palamos Water Services Company

Bryan W. Shaw, Ph.D., *Chairman*  
Buddy Garcia, *Commissioner*  
Carlos Rubinstein, *Commissioner*  
Mark R. Vickery, P.G., *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

April 8, 2011

Ms. Melissa Marroquin  
154 Lakeview Circle  
La Vernia, Texas 78121

Re: Comment Received, Proposed Agreed Enforcement Order  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
RN101278521; Public Water Supply ID No. 2470020  
Docket No. 2010-1427-PWS-E; Enforcement Case No. 40301

Dear Ms. Marroquin:

On March 11, 2011, we received your letter concerning the proposed agreed enforcement order for the Las Palomas Water Services Company dba Lake Valley Water Company, Inc. ("the Respondent") in Wilson County, Texas. I have forwarded your letter to our San Antonio Regional Office for their information and to our General Counsel's Office so that the Commissioners can consider your comments regarding the proposed order.

Texas Commission on Environmental Quality ("TCEQ") staff and the Respondent agreed on the terms of the proposed order on January 18, 2011. Accordingly, the Respondent was assessed, and has paid, an administrative penalty of Three Hundred Ninety-Two Dollars (\$392), of which Seventy-Eight Dollars (\$78) has been deferred in accordance with our expedited order process. The Respondent has paid Three Hundred Fourteen Dollars (\$314) of the administrative penalty.

You indicated in your letter that water restrictions have been in place for over one year. You also indicated that the water quality is discolored at times and that you experienced broken water lines at your residence due to air in the lines.

The technical requirements in the proposed agreed order require the Respondent to begin providing a well capacity of 0.6 gallons per minute within 180 days after the effective date of the agreed order. If the Respondent complies with the order, this action should allow the Respondent to lift the water restrictions that are currently in place. However, if the Respondent fails to comply with the technical requirements in the proposed agreed order, additional enforcement options may be initiated, including but not limited to, seeking injunctive relief from the Office of the Attorney General ("OAG") requiring the Respondent to comply with the proposed agreed order and/or pursue an alternative water supply source or an emergency interconnect with another water system.

Ms. Melissa Marroquin  
Page 2

The proposed agreed order does not relate to any violations involving water quality nor does the order address maintenance issues relating to broken water lines. The San Antonio Regional Office is aware of your concerns and will be investigating the water quality issues you described in your letter. Please note that the respondent is not responsible for repair and maintenance of water lines past the meter of your residence.

We appreciate your input into the enforcement action currently pending against the Respondent. A date has not been selected for consideration of an upcoming Commissioner's Agenda; however, your name has been added to the mailing list to receive a copy of the final order, should the Commission adopt it at a future agenda date. Ms. Amanda Henry is the Enforcement Coordinator assigned to this case. If you have further concerns or comments related to the order, please do not hesitate to call Ms. Henry at (713) 767-3672. For complaints related to the Respondent's current operating conditions or procedures, you should continue to contact our San Antonio Regional Office at (210) 490-3096.

Sincerely,



Bryan Sinclair, Director  
Enforcement Division  
Texas Commission on Environmental Quality

BS/ah

cc: Mr. Les Trobman, General Counsel, TCEQ  
Mr. Blas Coy, Public Interest Counsel, TCEQ  
Ms. LaDonna Castañuela, Chief Clerk, TCEQ  
Ms. Lynn Bumguardner, Manager, Water Section, San Antonio Regional Office, TCEQ



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	9-Aug-2010			
	<b>PCW</b>	19-Aug-2010	<b>Screening</b>	18-Aug-2010	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Las Palomas Water Services Company dba Lake Valley Water Company, Inc.				
<b>Reg. Ent. Ref. No.</b>	RN101278521				
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	40301	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2010-1427-PWS-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$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.

<b>Compliance History</b>	7.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$17
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Notes: Enhancement for one prior NOV with same/similar violation and one dissimilar NOV.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	50.0% Enhancement*	<b>Subtotal 6</b>	\$125
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Total EB Amounts: \$18,411; Approx. Cost of Compliance: \$250,000; \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$392
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$392
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$392
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$78
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$314
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Screening Date 18-Aug-2010

Docket No. 2010-1427-PWS-E

PCW

Respondent Las Palomas Water Services Company dba Lake V

Policy Revision 2 (September 2002)

Case ID No. 40301

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101278521

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	1	2%
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)

#### >> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

#### >> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one prior NOV with same/similar violation and one dissimilar NOV.

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

Screening Date 18-Aug-2010

Docket No. 2010-1427-PWS-E

PCW

Respondent Las Palomas Water Services Company dba Lake Valley Water C

Policy Revision 2 (September 2002)

Case ID No. 40301

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101278521

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(C)(i) and Tex. Health & Safety Code § 341.0315(a)(1)

Violation Description Failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection. Specifically, at the time of the record review, it was documented that the Facility's back-up well (Well No. 1), which produces 21 gpm was the only well in service due to the primary well (Well No. 2) being taken out-of-service for an inoperable pump. Based on 104 service connections, the Facility is required to provide a well capacity of 62 gpm, which is a 66 percent deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to provide adequate well production capacity may lead to water shortages or outages which could result in backflow or siphonage and may expose consumers to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 22

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended, from the record review date July 27, 2010 to the screening date, August 18, 2010.

Good Faith Efforts to Comply

0.0% Reduction \$0

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 for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18,411

Violation Final Penalty Total \$393

This violation Final Assessed Penalty (adjusted for limits) \$393

## Economic Benefit Worksheet

**Respondent** Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
**Case ID No.** 40301  
**Reg. Ent. Reference No.** RN101278521  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$250,000	27-Jul-2010	15-Aug-2011	1.05	\$877	\$17,534	\$18,411
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

The delayed cost includes the amount necessary to provide a well capacity of 0.6 gpm per connection. The date required is the investigation date. The final date is the estimated date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250,000

**TOTAL**

\$18,411

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602928384 LAS PALOMAS WATER SERVICES Classification: AVERAGE Rating: 3.01  
COMPANY  
Regulated Entity: RN101278521 LAKE VALLEY WATER COMPANY, Inc. Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2470020  
WATER LICENSING LICENSE 2470020

Location: 5 miles East of La Vernia on Farm-to-Market Rd. 539, Wilson County

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 17, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 17, 2005 to August 17, 2010

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

Name: Amanda Henry Phone: 713-767-3672

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 12/09/2005 (435092)
  - 2 02/09/2009 (726138)
  - 3 08/05/2010 (843036)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/10/2009 (726138) CN602928384  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to compile and maintain a system Monitoring Plan.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain the fencing around the water production facility

Date: 05/21/2010 (803189) CN602928384  
Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)

Description: Failure to provide adequate well production capacity.

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** § **BEFORE THE**  
**CONCERNING** §  
**LAS PALOMAS WATER** § **TEXAS COMMISSION ON**  
**SERVICES COMPANY DBA LAKE** §  
**VALLEY WATER COMPANY, INC.** § **ENVIRONMENTAL QUALITY**  
**RN101278521**

## **AGREED ORDER** **DOCKET NO. 2010-1427-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Las Palomas Water Services Company dba Lake Valley Water Company, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply located approximately five miles east of La Vernia on Farm-to-Market Road 539 in Wilson County, Texas (the "Facility") that has approximately 104 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 11, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of Three Hundred Ninety-Two Dollars (\$392) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Fourteen Dollars (\$314) of the administrative penalty and Seventy-Eight Dollars (\$78) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
6. 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.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have failed to provide a well capacity of 0.6 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(C)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(a)(1), as documented during a record review conducted on July 27, 2010.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be

constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Las Palomas Water Services Company dba Lake Valley Water Company, Inc., Docket No. 2010-1427-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. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 180 days after the effective date of this Agreed Order, provide a minimum well capacity of 0.6 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
- b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted 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:

Water Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

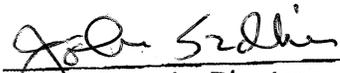
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Las Palomas Water Services Company dba Lake Valley Water Company, Inc.  
DOCKET NO. 2010-1427-PWS-E  
Page 5

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

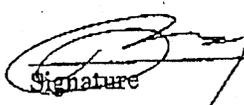
  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 4/5/2011

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

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
  - Greater scrutiny of any permit applications submitted;
  - Referral of this case to the 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, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 4/18/11

Hank Harenberg  
Name (Printed or typed)  
Authorized Representative of  
Las Palomas Water Services Company dba Lake Valley Water Company, Inc.

\_\_\_\_\_  
Title Member

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.