

**Executive Summary – Enforcement Matter – Case No. 46848
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE
CORPORATION
RN101253904
Docket No. 2013-0942-PWS-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Riverside Harbor, located off Farm-to-Market Road 980 on Lynell Drive, Walker County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 25, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$750

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$750

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 46848
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE
CORPORATION
RN101253904
Docket No. 2013-0942-PWS-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 1, 2013
Date(s) of NOE(s): May 8, 2013

Violation Information

1. Failed to comply with the maximum contaminant level (“MCL”) of 0.080 milligrams per liter (“mg/L”) for total trihalomethanes (“TTHM”) based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to comply with the MCL of 0.060 mg/L for haloacetic acids (“HAA5”), based on the running annual average, and failed to provide public notification regarding the failure to comply with the MCL for HAA5 [30 TEX. ADMIN. CODE §§ 290.113(f)(5) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 10 days, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility.
- b. Within 15 days, submit written certification demonstrating compliance with Ordering Provision a.
- c. Within 365 days:
 - i. Return to compliance with the running annual average MCL for TTHM; and
 - ii. Return to compliance with the running annual average MCL for HAA5.
- d. Within 380 days, submit written certification demonstrating compliance with Ordering Provisions c.i. and c.ii.

**Executive Summary – Enforcement Matter – Case No. 46848
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE
CORPORATION
RN101253904
Docket No. 2013-0942-PWS-E**

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Sam Keller, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2678; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: John Ganzer, General Manager, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION, P.O. Box 1149, Livingston, Texas 77351
Larry Fenstad, Board President, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION, P.O. Box 1149, Livingston, Texas 77351
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)
 Policy Revision 3 (September 2011) PCW Revision August 3, 2011

TCEQ DATES	Assigned	13-May-2013	Screening	14-May-2013	EPA Due	31-Mar-2013
	PCW	5-Jul-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION
Reg. Ent. Ref. No.	RN101253904
Facility/Site Region	12-Houston Major/Minor Source Major

CASE INFORMATION			
Enf./Case ID No.	46848	No. of Violations	2
Docket No.	2013-0942-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Sam Keller
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$600
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	25.0% Enhancement Subtotals 2, 3, & 7 \$150
Notes	Enhancement for five NOVs with same/similar violations.
Culpability	No 0.0% Enhancement Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
Economic Benefit	0.0% Enhancement* Subtotal 6 \$0
Total EB Amounts	\$616
Approx. Cost of Compliance	\$5,125
	<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7	Final Subtotal \$750
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Reduction Adjustment \$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	
	Final Penalty Amount \$750
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$750
DEFERRAL	0.0% Reduction Adjustment \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	No deferral is recommended for Findings Orders.
PAYABLE PENALTY	\$750

Screening Date 14-May-2013

Docket No. 2013-0942-PWS-E

PCW

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 46848

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101253904

Media [Statute] Public Water Supply

Enf. Coordinator Sam Keller

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>)	5	25%
	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) 25%

>> **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

Enhancement for five NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 25%

Screening Date 14-May-2013

Docket No. 2013-0942-PWS-E

PCW

Respondent

LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

Policy Revision 3 (September 2011)

Case ID No.

46848

PCW Revision August 3, 2011

Reg. Ent. Reference No.

RN101253904

Media [Statute]

Public Water Supply

Enf. Coordinator

Sam Keller

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the running annual average. Specifically, the running annual average concentrations of TTHM were 0.092 mg/L for the third quarter of 2012, 0.133 mg/L for the fourth quarter of 2012, and 0.134 mg/L for the first quarter of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM caused the persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

273 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

mark only one with an x

Violation Base Penalty \$300

One annual event is recommended.

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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$584

Violation Final Penalty Total \$375

This violation Final Assessed Penalty (adjusted for limits) \$375

Economic Benefit Worksheet

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION
Case ID No. 46848
Reg. Ent. Reference No. RN101253904
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Sep-2012	1-Jun-2014	1.67	\$28	\$556	\$584
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of non-compliance to the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$584

Screening Date 14-May-2013

Docket No. 2013-0942-PWS-E

PCW

Respondent

LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Case ID No.

46848

Reg. Ent. Reference No.

RN101253904

Media [Statute]

Public Water Supply

Enf. Coordinator

Sam Keller

Violation Number

2

Rule Cite(s)

30 Tex. Admin. Code §§ 290.113(f)(5) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for total haloacetic acids ("HAA5"), based on the running annual average and failed to provide public notification regarding the failure to comply with the MCL for HAA5. Specifically, the running annual average concentrations of HAA5 were 0.069 mg/L for the fourth quarter of 2012 and 0.067 mg/L for the first quarter of 2013; and public notice was due January 29, 2013 through April 29, 2013 for the failure to comply with the MCL for HAA5 for the fourth quarter of 2012 but was not provided.

Base Penalty

\$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for HAA5 caused the persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment

\$700

\$300

Violation Events

Number of Violation Events

1

181

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty

\$300

One annual event is recommended.

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

\$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$32

Violation Final Penalty Total

\$375

This violation Final Assessed Penalty (adjusted for limits)

\$375

Economic Benefit Worksheet

Respondent LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION
Case ID No. 46848
Reg. Ent. Reference No. RN101253904
Media Public Water Supply
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	1-Apr-2013	1-Jun-2014	1.17	\$6	n/a	\$6
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 estimated amount to implement procedures to ensure that public notice is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance. The other delayed costs of compliance for this violation are associated with the Economic Benefit for Violation No. 1.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$25	29-Jan-2013	29-Apr-2013	1.16	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount to provide public notification (\$25 per notice x 1 missed notification) for failure to comply with MCL for HAA5, calculated for the period in which public notification was required.

Approx. Cost of Compliance

\$125

TOTAL

\$32



Compliance History Report

PUBLISHED Compliance History Report for CN600623029, RN101253904, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600623029, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION	Classification: NOT APPLICABLE	Rating: N/A
Regulated Entity:	RN101253904, Riverside Harbor	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A
CH Group:	14 - Other		
Location:	OFF FARM-TO-MARKET ROAD 980, ON LYNELL DRIVE, WALKER COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2360014		

Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year:	2012	Rating Date:	09/01/2012
Date Compliance History Report Prepared:	July 09, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	May 13, 2008 to May 13, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Sam Keller			Phone:	(512) 239-2678

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	February 17, 2010	(792188)
Item 2	April 16, 2013	(1078540)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	09/25/2012	(1085753)	CN600623029
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Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a RAA of 0.092 mg/L.

2 Date: 01/22/2013 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a RAA of 0.133 mg/L.

3 Date: 01/29/2013 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: HAA5 MCL 4Q2012 - The system violated the maximum contaminant level for haloacetic acids during the 4th quarter of 2012 with a RAA of 0.069 mg/L.

4 Date: 04/02/2013 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a RAA of 0.134 mg/L.

5 Date: 04/16/2013 (1088542) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: HAA5 MCL 1Q2013 - The system violated the maximum contaminant level for haloacetic acids during the 1st quarter of 2013 with a RAA of 0.067 mg/L.

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 5/13/2008 and 5/13/2013

- 1 Date: 09/25/2012 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a RAA of 0.092 mg/L.
- 2 Date: 01/22/2013 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a RAA of 0.133 mg/L.
- 3 Date: 01/29/2013 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: HAA5 MCL 4Q2012 - The system violated the maximum contaminant level for haloacetic acids during the 4th quarter of 2012 with a RAA of 0.069 mg/L.
- 4 Date: 04/02/2013 (1085753) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TTHM MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a RAA of 0.134 mg/L.
- 5 Date: 04/16/2013 (1088542) CN600623029
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: HAA5 MCL 1Q2013 - The system violated the maximum contaminant level for haloacetic acids during the 1st quarter of 2013 with a RAA of 0.067 mg/L.

* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012

Appendix B

All Investigations Conducted During Component Period May 13, 2008 and May 13, 2013

- Item 1* February 17, 2010** (792188)
Item 2* April 16, 2013 (1078540)
Item 3 April 18, 2013 (1085753)
Item 4 May 08, 2013 (1088542)
Item 5 May 10, 2013 (1085851)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2007 and 08/31/2012.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
LAKE LIVINGSTON WATER SUPPLY	§	TEXAS COMMISSION ON
AND SEWER SERVICE	§	
CORPORATION	§	
RN101253904	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-0942-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION (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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located off Farm-to-Market Road 980, on Lynell Drive in Walker County, Texas (the "Facility") that has 118 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on April 1, 2013, TCEQ staff documented that the running annual average concentrations of total trihalomethanes ("TTHM") were 0.092 milligrams per liter ("mg/L") for the third quarter of 2012, 0.133 mg/L for the fourth quarter of 2012, and 0.134 mg/L for the first quarter of 2013.
3. During a record review conducted on April 1, 2013, TCEQ staff documented that the running annual average concentrations of total haloacetic acids ("HAA5") were 0.069 mg/L for the fourth quarter of 2012 and 0.067 mg/L for the first quarter of 2013; and public notice was due January 29, 2013 through April 29, 2013 for not complying with the Maximum Contaminant Level ("MCL") for the fourth quarter of 2012 but was not provided.
4. The Respondent received notice of the violations on May 14, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.080 mg/L for TTHM, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5, based on the running annual average, and failed to provide public notification regarding the failure to comply with the MCL for HAA5, in violation of 30 TEX. ADMIN. CODE §§ 290.113(f)(5) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent 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.
5. An administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Seven Hundred Fifty Dollar (\$750) administrative penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Seven Hundred Fifty Dollars (\$750) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION, Docket No. 2013-0942-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below in Ordering Provision No. 2.d. below, and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.;
 - c. Within 365 days after the effective date of this Agreed Order:
 - i. Return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
 - ii. Return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113.
 - d. Within 380 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 Nos. 2.c.i. and 2.c.ii. 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 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:

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

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. 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 the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.

7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Garcia
For the Executive Director

12/6/13
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION. I am authorized to agree to the attached Agreed Order on behalf of LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

John Ganzer
Signature

9-5-2013
Date

JOHN GANZER
Name (Printed or typed)

GENERAL MANAGER
Title

Authorized Representative of
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION

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