

TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Todd Burkey, Assistant General Counsel

Thru: Anna Treadwell, Senior Attorney
AWT Litigation Division

From: Misty James, Staff Attorney
Litigation Division *MJ*

Date: September 19, 2024

Subject: **Backup Revision**
September 25, 2024 Commission Agenda
Item No. 24, Troy G. Waller
Docket No. 2022-1330-UTL-E

Enclosed please find the following:

Page 2 of the Default Order:

Conclusion of Law 4 - Changed statute from TEXAS WATER CODE § 13.141 to TEXAS WATER CODE § 13.4151.

Respondent Contact:

Troy G. Waller
16251 Hammon Street
Amarillo, Texas 79118

Please do not hesitate to call Misty James at (512) 239-3400 if you have any questions regarding this matter.

cc: Ronica Scott, Enforcement Division
Gregory Nagel, Amarillo Regional Office
Gill Valls, Office of the General Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to adopt and submit to the TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations, in violation of TEX. WATER CODE § 13.1394(b)(2).
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § ~~13.141~~ 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE 70.105. Pursuant to TEX. WATER CODE § ~~13.141~~ 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 13.4151(a) and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$610 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 13.4151(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$610 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Troy G. Waller dba Rockwell Acres Water System; Docket No. 2022-1330-UTL-E" to:

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

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to adopt and submit to the TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations, in violation of TEX. WATER CODE § 13.1394(b)(2).
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 13.4151, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 13.4151(a) and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$610 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 13.4151(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$610 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Troy G. Waller dba Rockwell Acres Water System; Docket No. 2022-1330-UTL-E" to:

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

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 63157
Troy G. Waller dba Rockwell Acres Water System
RN101451565
Docket No. 2022-1330-UTL-E

Order Type:
Default Order

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
16010 Hammon Street, Amarillo, Randall County (the "Utility")

Type of Operation:
a retail public utility, exempt utility, or provider or conveyor of potable or raw water service

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, 2022-0456-PWS-E; 2023-1775-PWS-E
Past-Due Penalties: None
Past-Due Fees: \$3,276.88
Other: None
Interested Third-Parties: None

Texas Register Publication Date: August 9, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$610

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$610

Compliance History Classifications:

Person/CN - Not Applicable
Site/RN - Not Applicable

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 9, 2022 through September 22, 2022

Date(s) of NOV(s): March 24, 2022

Date(s) of NOE(s): September 23, 2022

Violation Information

Failed to adopt and submit to the TCEQ for approval an emergency preparedness plan (“EPP”) that demonstrates the Utility’s ability to provide emergency operations [TEX WATER CODE § 13.1394(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 90 days develop and submit to the TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations.
2. Within 105 days submit written certification, to demonstrate compliance with Technical Requirement No. 1.
3. Within 270 days obtain approval from the TCEQ for the EPP submitted pursuant to Technical Requirement No. 1.
4. Within 285 days submit written certification, to demonstrate compliance with Technical Requirement No. 3.

Litigation Information

Date Petition(s) Filed: June 22, 2023

Date(s) of Service: June 29, 2023

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Misty James, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Ronica Scott, Enforcement Division, (361) 881-6990

TCEQ Regional Contact: Gregory Nagel, Amarillo Regional Office, (806) 353-9251

Respondent Contact: Troy G. Waller, 16251 Hammon Street, Amarillo, Texas 79118

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	4-Oct-2022	Screening	11-Oct-2022	EPA Due	
	PCW	2-Nov-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	Troy G. Waller dba Rockwell Acres Water System
Reg. Ent. Ref. No.	RN101451565
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	63157	No. of Violations	1
Docket No.	2022-1330-UTL-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ecko Beggs
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
---	-------------------	--------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	22.0% Adjustment	Subtotals 2, 3, & 7	\$110
---------------------------	-------------------------	--------------------------------	--------------

Notes: Enhancement for one NOV with dissimilar violations and one agreed order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	-------------------------	-------------------	------------

Notes:

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	------------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	--------------------------	-------------------	------------

Total EB Amounts: \$8
 Estimated Cost of Compliance: \$180
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$610
-----------------------------	-----------------------	--------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
---	------------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$610
-----------------------------	--------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$610
-----------------------------------	-------------------------------	--------------

DEFERRAL	0.0% Reduction	Adjustment	\$0
-----------------	-----------------------	-------------------	------------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$610
------------------------	--------------

Screening Date 11-Oct-2022

Docket No. 2022-1330-UTL-E

PCW

Respondent Troy G. Waller dba Rockwell Acres Water System

Policy Revision 5 (January 28, 2021)

Case ID No. 63157

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101451565

Media Public Water Supply

Enf. Coordinator Ecko Beggs

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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 judgments 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%
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) 22%

>> 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 one NOV with dissimilar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 11-Oct-2022 **Docket No.** 2022-1330-UTL-E **PCW**
Respondent Troy G. Waller dba Rockwell Acres Water System *Policy Revision 5 (January 28, 2021)*
Case ID No. 63157 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101451565
Media Public Water Supply
Enf. Coordinator Ecko Beggs

Violation Number 1

Rule Cite(s) Tex. Water Code § 13.1394(b)(2)

Violation Description Failed to adopt and submit to the TCEQ for approval an emergency preparedness plan ("EPP") that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		

100% of the rule requirements were not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1 32 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$8 **Violation Final Penalty Total** \$610

This violation Final Assessed Penalty (adjusted for limits) \$610

Economic Benefit Worksheet

Respondent Troy G. Waller dba Rockwell Acres Water System
Case ID No. 63157
Reg. Ent. Reference No. RN101451565
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	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$180	9-Sep-2022	15-Jul-2023	0.85	\$8	n/a	\$8

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and submit to the TCEQ for approval an EPP that demonstrates the Facility's ability to provide emergency operations, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$180

TOTAL \$8



Compliance History Report

Compliance History Report for CN601819469, RN101451565, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN601819469, Troy G. Waller **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101451565, ROCKWELL ACRES WATER SYSTEM **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 16010 HAMMON STREET IN AMARILLO, RANDALL COUNTY, TEXAS

TCEQ Region: REGION 01 - AMARILLO

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1910004

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: August 14, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 15, 2017 to December 15, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Ronica Rodriguez Scott **Phone:** (512) 239-2510

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

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

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

- 1 Effective Date: 10/20/2020 ADMINORDER 2020-0446-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: GA MCL 4Q2019 - During the 4th quarter of 2019 the system violated the maximum contaminant level for gross alpha with a RAA of 16 pCi/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: GA MCL 3Q2019 - During the 3rd quarter of 2019 the system violated the maximum contaminant level for gross alpha with a RAA of 16 pCi/L.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: GA MCL 2Q2019 - During the 2nd quarter of 2019 the system violated the maximum contaminant level for gross alpha with a RAA of 18 pCi/L.
Classification: Minor
Citation: 2A TWC Chapter 5, SubChapter A 5.702
30 TAC Chapter 291, SubChapter D 291.76
Description: Failed to pay regulatory assessment fees for the TCEQ Public Utility Account regarding Certificate of Convenience and Necessity No. 11759 for calendar year 2019.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 24, 2018	(1481065)
Item 2	May 08, 2018	(1483721)
Item 3	February 11, 2020	(1624562)
Item 4	April 14, 2021	(1707182)

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: 03/24/2022 (1809827)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.106(c)(4)
30 TAC Chapter 290, SubChapter F 290.106(c)(9)
30 TAC Chapter 290, SubChapter F 290.106(e)
- Description: MTL MR 3Y2021 - The system failed to monitor and/or report metal levels to the TCEQ for the triennial monitoring period from 01/01/2019 to 12/31/2021 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 02/24/2021
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(c)(7)
30 TAC Chapter 290, SubChapter F 290.106(c)(9)
30 TAC Chapter 290, SubChapter F 290.106(e)
- Description: NO32 MR YR2021- The system failed to monitor and/or report nitrate and nitrite levels to the TCEQ for the annual monitoring period from 01/01/2021 to 12/31/2021 within the required timeline. ETT Point Value = 5;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 02/24/2021
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.108(e)
30 TAC Chapter 290, SubChapter F 290.108(f)(3)
30 TAC Chapter 290, SubChapter F 290.108(f)(4)
- Description: RAD MR 3Q2021 - The system failed to monitor and/or report radionuclide levels to the TCEQ for the quarterly monitoring period from 07/01/2021 to 09/30/2021 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 08/18/2021
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.107(c)(2)
30 TAC Chapter 290, SubChapter F 290.107(e)
- Description: VOC MR YR2021 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2021 to 12/31/2021 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 02/24/2021

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

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.108(e)
30 TAC Chapter 290, SubChapter F 290.108(f)(3)
30 TAC Chapter 290, SubChapter F 290.108(f)(4)
Description: RAD MR 3Q2020 - The system failed to monitor and/or report radionuclide levels to the TCEQ for the quarterly monitoring period from 07/01/2020 to 09/30/2020 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 08/17/2020

6 Date: 05/28/2021 (1809827)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.108(e)
30 TAC Chapter 290, SubChapter F 290.108(f)(3)
30 TAC Chapter 290, SubChapter F 290.108(f)(4)
Description: RAD MR 4Q2020 - The system failed to monitor and/or report radionuclide levels to the TCEQ for the quarterly monitoring period from 10/01/2020 to 12/31/2020 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 11/12/2020

7 Date: 11/22/2021 (1809827)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.108(e)
30 TAC Chapter 290, SubChapter F 290.108(f)(3)
30 TAC Chapter 290, SubChapter F 290.108(f)(4)
Description: RAD MR 2Q2021 - The system failed to monitor and/or report radionuclide levels to the TCEQ for the quarterly monitoring period from 04/01/2021 to 06/30/2021 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 05/06/2021

8 Date: 03/24/2022 (1809827)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.106(c)(4)
30 TAC Chapter 290, SubChapter F 290.106(c)(9)
30 TAC Chapter 290, SubChapter F 290.106(e)
Description: MTL MR 3Y2021 - The system failed to monitor and/or report metal levels to the TCEQ for the triennial monitoring period from 01/01/2019 to 12/31/2021 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 02/24/2021

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.106(c)(6)
30 TAC Chapter 290, SubChapter F 290.106(c)(7)
30 TAC Chapter 290, SubChapter F 290.106(c)(9)
30 TAC Chapter 290, SubChapter F 290.106(e)
Description: NO32 MR YR2021- The system failed to monitor and/or report nitrate and nitrite levels to the TCEQ for the annual monitoring period from 01/01/2021 to 12/31/2021 within the required timeline. ETT Point Value = 5;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 02/24/2021

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.108(e)
30 TAC Chapter 290, SubChapter F 290.108(f)(3)
30 TAC Chapter 290, SubChapter F 290.108(f)(4)
Description: RAD MR 3Q2021 - The system failed to monitor and/or report radionuclide levels to the TCEQ for the quarterly monitoring period from 07/01/2021 to 09/30/2021 within the required timeline. ETT Point Value = 1;
SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 08/18/2021

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(f)(4)
30 TAC Chapter 290, SubChapter F 290.107(c)(2)
30 TAC Chapter 290, SubChapter F 290.107(e)

Description:

VOC MR YR2021 - The system failed to monitor and/or report volatile organic contaminants levels to the TCEQ for the annual monitoring period from 01/01/2021 to 12/31/2021 within the required timeline. ETT Point Value = 1; SAMPLE RESULTS NOT SUBMITTED, SAMPLE COLLECTED ON 02/24/2021

* NOVs applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

Appendix B

All Investigations Conducted During Component Period December 15, 2017 and December 15, 2022

Item 1*	April 24, 2018	(1481065)
Item 2*	May 08, 2018	(1483721)
Item 3*	February 11, 2020**	(1624562)
Item 4	March 09, 2020**	(1633591)
Item 5	March 13, 2020**	(1633833)
Item 6*	April 14, 2021**	(1707182)
Item 7	April 13, 2022**	(1809827)
Item 8	April 15, 2022**	(1810138)
Item 9	September 23, 2022**	(1846051)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TROY G. WALLER DBA ROCKWELL
ACRES WATER SYSTEM;
RN101451565**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2022-1330-UTL-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Troy G. Waller dba Rockwell Acres Water System ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and/or operates a retail public utility, exempt utility, or provider or conveyor of potable or raw water service located at 16010 Hammon Street near Amarillo, Randall County, Texas (the "Utility"). The Utility furnishes water service to more than one customer and is not located in a county with a population of 3.3 million or more or in a county with a population of 550,000 or more adjacent to a county with a population of 3.3 million or more. As such, the Utility is an "affected utility" as defined in TEX. WATER CODE § 13.1394(a)(1). Therefore, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 13.
2. During an investigation and record review conducted on September 9, 2022 through September 22, 2022, an investigator documented that Respondent failed to adopt and submit to the TCEQ for approval an emergency preparedness plan ("EPP") that demonstrates the Utility's ability to provide emergency operations.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Troy G. Waller dba Rockwell Acres Water System" (the "EDPRP") in the TCEQ Chief Clerk's office on June 22, 2023.
4. By letter dated June 22, 2023, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on June 29, 2023.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to adopt and submit to the TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations, in violation of TEX. WATER CODE § 13.1394(b)(2).
3. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
4. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. WATER CODE § 13.141, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 13.141, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 13.4151(a) and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of \$610 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 13.4151(b).
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$610 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Troy G. Waller dba Rockwell Acres Water System; Docket No. 2022-1330-UTL-E" to:

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

3. Respondent shall undertake the following technical requirements:

- a. Within 90 days after the effective date of this Order, develop and submit to the TCEQ for approval an EPP that demonstrates the Utility's ability to provide emergency operations, in accordance with TEX. WATER CODE § 13.1394(b)(2). The EPP must demonstrate Respondent's ability to provide emergency operations, as described by TEX. WATER CODE § 13.1394(b)(1), and shall be submitted to:

Emergency Response and Preparedness Section, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

Respondent shall respond completely within 10 days to all requests for information about the submitted or forthcoming EPP;

- b. Within 105 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 3.e., to demonstrate compliance with Ordering Provision No. 3.a;
- c. Within 270 days after the effective date of this Order, obtain approval from the TCEQ for the EPP submitted pursuant to Ordering Provision No. 3.a., in accordance with TEX. WATER CODE § 13.1394(b)(2);
- d. Within 285 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 3.e., to demonstrate compliance with Ordering Provision No. 3.c.; and
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

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

and:

Drinking Water Special Functions Team
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MISTY JAMES

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Troy G. Waller dba Rockwell Acres Water System’ (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on June 22, 2023.

The EDPRP was mailed to Respondent’s last known address on June 22, 2023, via certified mail, return receipt requested, postage prepaid. According to USPS.com “Track & Confirm” delivery confirmation records, Respondent received notice of the EDPRP on June 29, 2023.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.”

"My name is Misty James, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct.”

Executed in _____ Travis _____ County,

State of Texas,

on the 17th day of _____ July _____, 2024

A handwritten signature in black ink, appearing to read "Misty James", written over a horizontal line.

Declarant