

Executive Summary – Enforcement Matter – Case No. 63298
Ronald Francois dba A & S Water Services
RN110665114
Docket No. 2022-1524-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three repeated enforcement actions (or two orders with nuisance violations) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

A & S Water Services, 12886 Johnson Road, Conroe, Montgomery County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2021-0919-PWS-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 23, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,275

Amount Deferred for Naturally Occurring Radionuclides: \$1,275

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 3, 2022 through October 14, 2022

Date(s) of NOE(s): October 14, 2022

Executive Summary – Enforcement Matter – Case No. 63298
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Docket No. 2022-1524-PWS-E

Violation Information

Failed to comply with the maximum contaminant level ("MCL") of 15 picoCuries per liter for gross alpha particle activity based on the running annual average [30 TEX. ADMIN. CODE § 290.108(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 180 days, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the Executive Director that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance within 1,095 days with the MCL for gross alpha particle activity;
- b. Within 195 days, submit written certification to demonstrate compliance with a.
- c. Within 365 days and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the MCL for gross alpha particle activity;
- d. Within 1,095 days, return to compliance with the MCL for gross alpha particle activity based on the running annual average; and
- e. Within 1,110 days, submit written certification to demonstrate compliance with d.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Claudia Bartley, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1116; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Ronald Francois, Owner, A & S Water Services, 13795 Old Texaco Road, Conroe, Texas 77302-4597

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	17-Oct-2022	Screening	21-Oct-2022	EPA Due	31-Dec-2022
	PCW	25-Oct-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	Ronald Francois dba A & S Water Services		
Reg. Ent. Ref. No.	RN110665114		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	63298	No. of Violations	1
Docket No.	2022-1524-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Claudia Bartley
		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	\$1,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2.0%	Adjustment	Subtotals 2, 3, & 7	\$25
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Notes: Enhancement for one NOV with a dissimilar violation.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$14,921
Estimated Cost of Compliance: \$40,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,275
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$1,275
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,275
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DEFERRAL	100.0%	Reduction	Adjustment	-\$1,275
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

The Executive Director recommends a conditional deferral for naturally occurring constituents.

PAYABLE PENALTY	\$0
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Screening Date	21-Oct-2022	Docket No.	2022-1524-PWS-E	PCW
Respondent	Ronald Francois dba A & S Water Services			Policy Revision 5 (January 28, 2021)
Case ID No.	63298			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN110665114			
Media	Public Water Supply			
Enf. Coordinator	Claudia Bartley			

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>)	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 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) 2%

>> 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 a dissimilar violation.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 2%

Screening Date 21-Oct-2022 Respondent Ronald Francois dba A & S Water Services Case ID No. 63298 Reg. Ent. Reference No. RN110665114 Media Public Water Supply Enf. Coordinator Claudia Bartley	Docket No. 2022-1524-PWS-E <div style="text-align: right;"> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i> </div>	PCW
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Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 290.108(f)(1) and Tex. Health & Safety Code § 341.0315(c)
Violation Description	Failed to comply with the maximum contaminant level ("MCL") of 15 picoCuries per liter ("pCi/L") for gross alpha particle activity based on the running annual average. Specifically, the running annual average concentrations of gross alpha particle activity were 16 pCi/L for the fourth quarter of 2021, 16 pCi/L for the second quarter of 2022, and 17 pCi/L for the third quarter of 2022.

Base Penalty	\$5,000
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>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
		Major	Moderate	Minor	
	Actual	x			
	Potential				

	Percent
	25.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	

	Percent
	0.0%

Matrix Notes	Exceeding the MCL for gross alpha particle activity caused the persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.
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Adjustment	\$3,750
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	\$1,250
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Violation Events

Number of Violation Events	1		273	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual	x		
	single event			

Violation Base Penalty	\$1,250
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One annual event is recommended.	
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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	\$1,250
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Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$14,921
	Violation Final Penalty Total
	\$1,275
This violation Final Assessed Penalty (adjusted for limits)	
\$1,275	

Economic Benefit Worksheet

Respondent Ronald Francois dba A & S Water Services
Case ID No. 63298
Reg. Ent. Reference No. RN110665114
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40,000	31-Dec-2021	29-Apr-2027	5.33	\$711	\$14,210	\$14,921
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 cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for gross alpha particle activity, calculated from the last day of the first quarter of noncompliance 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

\$40,000

TOTAL

\$14,921



Compliance History Report

Compliance History Report for CN605622448, RN110665114, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator:	CN605622448, RONALD FRANCOIS	Classification:	NOT APPLICABLE	Rating:	N/A
Regulated Entity:	RN110665114, A & S WATER SERVICES	Classification:	NOT APPLICABLE	Rating:	N/A
Complexity Points:	N/A	Repeat Violator:	N/A		
CH Group:	14 - Other				
Location:	12886 JOHNSON ROAD IN CONROE, MONTGOMERY COUNTY, TEXAS				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1700891				

Compliance History Period:	September 01, 2018 to August 31, 2023	Rating Year:	2023	Rating Date:	09/01/2023
Date Compliance History Report Prepared:	December 18, 2023				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	December 18, 2018 to December 18, 2023				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Claudia Bartley		Phone:	(512) 239-1116	

Site and Owner/Operator History:

- | | |
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| 1) Has the site been in existence and/or operation for the full five year compliance period? | NO |
| 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:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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: | 05/15/2023 | (1881869) | |
| | Self Report? | NO | | Classification: Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.46(n)(2) | | |
| | Description: | Failure by a public water system to provide an accurate and up-to-date map of the distribution system. | | |

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 12/18/2018 and 12/18/2023

- 1 Date: 09/30/2019 (1738888)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 2Q2019 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 2nd quarter of 2019 within the required
timeline.
- 2 Date: 12/13/2019 (1604610)
Self Report? NO Classification: Major
Citation:
30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure to maintain the required minimum disinfection residual when disinfection
equipment is available.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)
Description: Failure to provide flushing logs at the time of the investigation.
- 3 Date: 01/15/2020 (1738888)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 3Q2019 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 3rd quarter of 2019 within the required
timeline.
- 4 Date: 02/24/2020 (1738888)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 4Q2019 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 4th quarter of 2019 within the required
timeline.
- 5 Date: 07/02/2020 (1738888)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 1Q2020 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 1st quarter of 2020 within the required
timeline.
- 6 Date: 09/30/2020 (1738888)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

Description: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
DLQOR MR 2Q2020 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 2nd quarter of 2020 within the required
timeline.

7 Date: 12/17/2020 (1738888)
Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 3Q2020 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 3rd quarter of 2020 within the required
timeline.

8 Date: 03/19/2021 (1738888)
Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter F 290.117(c)(2)(A)(i)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)
Description: LCR IN MR 2nd 6M2020 - The system failed to monitor and/or report distribution lead
and copper levels to the TCEQ for the initial six-month monitoring period from
07/01/2020 to 12/31/2020 within the required timeline

9 Date: 03/22/2021 (1738888)
Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter F 290.117(e)
30 TAC Chapter 290, SubChapter F 290.117(h)
30 TAC Chapter 290, SubChapter F 290.117(i)(3)
Description: LCR WQP MR Reduced 2020 - The system failed to monitor for water quality parameters
in accordance with TCEQ rules two times during the Reduced 2020 monitoring period at
entry point location 12886 Johnson Rd, Conroe (EP001) and the distribution system.

10 Date: 04/01/2021 (1738888)
Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: DLQOR MR 4Q2020 - The system failed to monitor and/or report distribution
disinfectant residuals to the TCEQ for the 4th quarter of 2020 within the required
timeline.

11 Date: 06/10/2021 (1673242)
Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter D 290.46(e)
Description: Failure by a public water system to be operated at all times under the direct supervision
of a water works operator who holds an applicable, valid license issued by the executive
director.

Self Report? NO Classification: Moderate
Citation:

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)
Description: Failure by a public water system to provide the amount of chemicals used and the
volume of water treated and distributed.

Self Report? NO Classification: Moderate
Citation:

			30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(ix)
	Description:		Failure by a public water system to provide any Sample Siting Plan required by §290.109(d)(6) of this title and monitoring plans required by §290.121(b) of this title (relating to Monitoring Plans).
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter D 290.46(n)(2)
	Description:		Failure by a public water system to provide an accurate and up-to-date map of the distribution system.
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter D 290.42(l)
	Description:		Failure by a public water system to provide a thorough plant operations manual.
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)
	Description:		Failure by a public water system to provide copies of the Customer Service Inspection reports.
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iii)
	Description:		Failure by a public water system to provide copies of the disinfectant residual monitoring results from the distribution system.
12	Date:	06/23/2021 (1738888)	
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
			30 TAC Chapter 290, SubChapter F 290.110(f)(2)
			30 TAC Chapter 290, SubChapter F 290.110(f)(3)
	Description:		DLQOR MR 1Q2021 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2021 within the required timeline
13	Date:	02/02/2022 (1848022)	
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter F 290.108(F)(1)
	Description:		GA MCL 4Q2021 - During the 4th quarter of 2021 the system violated the maximum contaminant level for gross alpha with a RAA of 16 pCi/L. ETT Point Value = 5
14	Date:	07/20/2022 (1848022)	
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter F 290.108(F)(1)
	Description:		GA MCL 2Q2022 - During the 2nd quarter of 2022 the system violated the maximum contaminant level for gross alpha with a RAA of 16 pCi/L. ETT Point Value = 5
15*	Date:	09/22/2022 (1848022)	
	Self Report?	NO	Classification: Moderate
	Citation:		
			30 TAC Chapter 290, SubChapter F 290.108(F)(1)
	Description:		GA MCL 3Q2022 - During the 3rd quarter of 2022 the system violated the maximum contaminant level for gross alpha with a RAA of 17 pCi/L. ETT Point Value = 5
16*	Date:	05/15/2023 (1881869)	
	Self Report?	NO	Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(n)(2)

Description:

Failure by a public water system to provide an accurate and up-to-date map of the distribution system.

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

Appendix B

All Investigations Conducted During Component Period December 18, 2018 and December 18, 2023

Item 1	June 03, 2021**	(1673242)
Item 2	July 07, 2021**	(1738888)
Item 3	July 09, 2021**	(1739074)
Item 4	October 12, 2022**	(1848022)
Item 5	October 14, 2022**	(1852314)
Item 6	May 15, 2023**	(1881869)

* 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
RONALD FRANCOIS DBA A & S
WATER SERVICES
RN110665114

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-1524-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ronald Francois dba A & S Water Services (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 Order to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including 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 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 agreement of the parties. 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. The duties and responsibilities imposed by this 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 at 12886 Johnson Road in Conroe, Montgomery County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 13 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review for the Facility conducted on October 3, 2022 through October 14, 2022, an investigator documented that the running annual average concentrations of gross alpha particle activity were 16 picoCuries per liter ("pCi/L") for the fourth quarter of 2021, 16 pCi/L for the second quarter of 2022, and 17 pCi/L for the third quarter of 2022.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 15 pCi/L for gross alpha particle activity based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.108(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$1,275 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The amount of \$1,275 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, the Executive Director may demand payment of all or part of the conditionally deferred penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the 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 that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ronald Francois dba A & S Water Services, Docket No. 2022-1524-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 180 days after the effective date of this Order, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the Executive Director that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective

actions to achieve compliance within 1,095 days after the effective date of this Order with the MCL for gross alpha particle activity to the addresses listed in Ordering Provision No. 2.e below.

- b. Within 195 days after the effective date of this Order, submit written certification to the addresses listed in Ordering Provision No. 2.e below, and include detailed 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 Order and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.e below. These reports shall include information regarding actions taken to provide water which meets the MCL for gross alpha particle activity.
- d. Within 1,095 days after the effective date of this Order, return to compliance with the MCL for gross alpha particle activity based on the running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.108.
- e. Within 1,110 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be signed by the 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. 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 in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. This 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 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.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

3/14/2024

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 OAG 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 OAG 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

1/18/2024

Date

Ronald R. Francois

Name (Printed or typed)
Authorized Representative of
Ronald Francois dba A & S Water Services

1/18/2024

Title

☐ If mailing address has changed, please check this box and provide the new address below: