

Executive Summary – Enforcement Matter – Case No. 65051
Lake Livingston Water Supply Corporation
RN105711931
Docket No. 2023-1675-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:

Lake Livingston Pineshadows East, 4415 Farm-to-Market Road 3216, Livingston, Polk County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2022-1298-PWS-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 19, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,875

Amount Deferred for Naturally Occurring Radionuclides: \$2,875

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: Yes

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: November 6, 2023 through November 17, 2023

Date(s) of NOE(s): November 17, 2023

Executive Summary – Enforcement Matter – Case No. 65051
Lake Livingston Water Supply Corporation
RN105711931
Docket No. 2023-1675-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 a 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: Hannah Shakir, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-1142; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: John Sexton, Board President, Lake Livingston Water Supply Corporation, P.O. Box 1149, Livingston, Texas 77351

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	20-Nov-2023			
	PCW	28-Nov-2023	Screening	22-Nov-2023	EPA Due 30-Sep-2023

RESPONDENT/FACILITY INFORMATION	
Respondent	Lake Livingston Water Supply Corporation
Reg. Ent. Ref. No.	RN105711931
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	65051	No. of Violations	1
Docket No.	2023-1675-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Hannah Shakir
		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	\$2,500
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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	15.0%	Adjustment	Subtotals 2, 3, & 7	\$375
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Notes: Enhancement for one NOV with the same/similar violations and one agreed order containing a denial of liability. Reduction for High Performer classification.

Culpability	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: \$12,282
 Estimated Cost of Compliance: \$40,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

	Final Penalty Amount	\$2,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,875
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DEFERRAL	100.0%	Reduction	Adjustment	-\$2,875
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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 22-Nov-2023

Docket No. 2023-1675-PWS-E

PCW

Respondent Lake Livingston Water Supply Corporation

Policy Revision 5 (January 28, 2021)

Case ID No. 65051

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN105711931

Media Public Water Supply

Enf. Coordinator Hannah Shakir

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>)	1	5%
	Other written NOVs	0	0%
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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with the same/similar violations and one agreed order containing a denial of liability. Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date 22-Nov-2023

Docket No. 2023-1675-PWS-E

PCW

Respondent Lake Livingston Water Supply Corporation

Policy Revision 5 (January 28, 2021)

Case ID No. 65051

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN105711931

Media Public Water Supply

Enf. Coordinator Hannah Shakir

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 pCi/L for gross alpha particle activity based on the running annual average. Specifically, the running average concentrations of gross alpha particle activity were 16 pCi/L for the fourth quarter of 2022, 19 pCi/L for the first quarter of 2023, and 18 pCi/L for the second quarter of 2023.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50.0%).

>> Programmatic Matrix

Table with columns: 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.

Adjustment \$2,500

\$2,500

Violation Events

Number of Violation Events 1 272 Number of violation days

Table with frequency categories: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$2,500

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12,282

Violation Final Penalty Total \$2,875

This violation Final Assessed Penalty (adjusted for limits) \$2,875

Economic Benefit Worksheet

Respondent Lake Livingston Water Supply Corporation
Case ID No. 65051
Reg. Ent. Reference No. RN105711931
Media Violation No. Public Water Supply
 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-2022	20-May-2027	4.39	\$585	\$11,697	\$12,282
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 \$12,282



Compliance History Report

Compliance History Report for CN600623029, RN105711931, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600623029, Lake Livingston Water Supply Corporation **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105711931, LAKE LIVINGSTON PINESHADOWS EAST **Classification:** HIGH **Rating:** 0.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 4415 FARM-TO-MARKET 3216 IN LIVINGSTON, POLK COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1870166 **SLUDGE REGISTRATION** 730375

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

Date Compliance History Report Prepared: May 20, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 20, 2019 to May 20, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Hannah Shakir **Phone:** (512) 239-1142

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: 08/04/2020 ADMINORDER 2019-1757-PWS-E (1660 Order-Agreed Order With Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TTHM LRAA MCL 3Q2019 - During the 3rd quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.086 mg/L at 4951 FM 3126 Livingston Indian Hill Park (DBP2-01).
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TTHM LRAA MCL 1Q2019 - During the 1st quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 4951 FM 3126 Livingston Indian Hill Park (DBP2-01).
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: CHLORITE MR PN MAR/2018 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a chlorite monitoring and reporting violation for the month of 03/2018.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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: 11/03/2023 (1943032)	Self Report? NO	Classification: Moderate
		Citation: 30 TAC Chapter 290, SubChapter F 290.108(F)(1)	
		Description: GA MCL 2Q2023 - During the 2nd quarter of 2023 the system violated the maximum contaminant level for gross alpha with a RAA of 18 pCi/L. ETT Point Value = 5	

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 NOV's Issued During Component Period 5/20/2019 and 5/20/2024

- 1 Date: 05/15/2019 (1612254)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 1Q2019 - During the 1st quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.082 mg/L at 4951 FM 3126 Livingston Indian Hill Park (DBP2-01).

- 2 Date: 06/28/2019 (1612254)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: CHLORITE MR PN MAR/2018 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a chlorite monitoring and reporting violation for the month of 03/2018.

- 3 Date: 11/14/2019 (1612254)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: TTHM LRAA MCL 3Q2019 - During the 3rd quarter of 2019 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.086 mg/L at 4951 FM 3126 Livingston Indian Hill Park (DBP2-01).

- 4 Date: 03/05/2020 (1623308)
Self Report? NO Classification: Moderate
Citation:
30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failure by Lake Livingston WSC - Lake Livingston Pineshadows East to maintain a total chlorine residual of at least 0.5 milligrams per liter throughout the distribution system.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.46(q)(1)
Description: Failure to Lake Livingston WSC - Lake Livingston Pineshadows East to rescind Boil Water Notices using the language and format specified in 30 TAC 290.47(c)(3).
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(ix)
Description: Failure by Lake Livingston WSC - Lake Livingston Pineshadows East to maintain a record of the sample site locations that are used when collecting chloramine effectiveness samples within the distribution system.
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 290, SubChapter F 290.110(c)(4)(C)
30 TAC Chapter 290, SubChapter F 290.110(c)(5)(D)(i)
Description: Failure by Lake Livingston WSC - Lake Livingston Pineshadows East to monitor monochloramine and free ammonia (as nitrogen) on a weekly basis at the same time as compliance distribution disinfectant samples.

- 5 Date: 03/10/2020 (1618577)

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure by the Lake Livingston WSC - Pineshadows East to have a complete plant operations manual.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to provide a flow-measuring device to measure the treated water discharged from the plant.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to provide an air gap connection between the filter-to-waste and waste lines.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(2)(A)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to provide vacuum breakers on each hose bibb within the plant facility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(2)(F)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to provide a 16-mesh or finer corrosion-resistant screening material on all openings to the atmosphere.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to maintain complete calibration and accuracy check records for laboratory equipment, on-line turbidimeters, and on-line chlorine residual analyzers.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(iv)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to check the calibration of on-line pH meters with a primary standard or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once each week.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(iii)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to have a Recycling Practices Report.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to check benchtop turbidimeters with secondary standards each time a series of samples is tested.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to have operating records accessible for review upon request.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(14) 30 TAC Chapter 290, SubChapter D 290.42(d)(3)(A)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to provide an adequate raw water sample tap.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.111(h)		
Description:	Failure by Lake Livingston WSC - Pineshadows East to accurately complete		

the Surface Water Monthly Operating Report (SWMOR).

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.46(m)
Failure by Lake Livingston WSC - Pineshadows East to maintain plant equipment and facilities in a good working condition and general appearance.

Self Report? NO Classification: Major
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)
Failure by Lake Livingston WSC - Pineshadows East to provide 0.6 gpm per connection of raw water pump capacity with the largest pump out of service.

Self Report? NO Classification: Major
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)
Failure by Lake Livingston WSC - Pineshadows East to provide 0.6 gpm per connection of transfer pump capacity with the largest pump out of service.

Self Report? NO Classification: Moderate
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(E)
Failure by Lake Livingston WSC - Pineshadows East to provide a total storage capacity of 200 gallons per connection.

Self Report? NO Classification: Moderate
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)
Failure by Lake Livingston WSC - Pineshadows East to provide two or more pumps that have a total capacity of 2.0 gpm per connection or that have a total capacity of at least 1,000 gpm and the ability to meet peak hourly demands with the largest pump out of service, whichever is less.

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(G)
Failure by Lake Livingston WSC - Pineshadows East to provide a pressure tank capacity of 20 gallons per connection.

Self Report? NO Classification: Major
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)
Failure by Lake Livingston WSC - Pineshadows East to provide a total well production capacity of 0.6 gpm per connection.

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)
Failure by Lake Livingston WSC - Pineshadows East to provide 0.6 gpm per connection under normal rated design flow.

Self Report? NO Classification: Moderate
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(E)
Failure by Lake Livingston WSC - Pineshadows East to provide a total storage capacity of 200 gallons per connection.

6 Date: 04/22/2020 (1632779)

Self Report? NO Classification: Moderate
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
Failure by Lake Livingston WSC-Pineshadows East to have all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances shall be maintained in a watertight condition and be free of excessive solids.

7 Date: 04/30/2021 (1706234)

Self Report? NO Classification: Minor
Citation:

Description: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Failure by Lake Livingston WSC - Lake Livingston Pineshadows East to have records available to the TCEQ upon request.

8	Date: 08/25/2021 (1750320)		
	Self Report? NO	Classification: Minor	
	Citation:		
	V. StdP, D, Pg. 3 PERMIT		
	Description: Failure by Lake Livingston Water Supply Corporation Pineshadows East Water Treatment Plant (LLWSC) to submit the Annual Sludge Summary Report Form to the TCEQ Regional Office.		
	Self Report? NO	Classification: Minor	
	Citation:		
	V. StdP, D, Pg. 3 PERMIT		
	Description: Failure by Lake Livingston Water Supply Corporation Pineshadows East Water Treatment Plant (LLWSC) to submit the Annual Sludge Summary Report Form by September 30.		
9*	Date: 03/23/2023 (1943032)		
	Self Report? NO	Classification: Moderate	
	Citation:		
	30 TAC Chapter 290, SubChapter F 290.108(F)(1)		
	Description: GA MCL 4Q2022 - During the 4th quarter of 2022 the system violated the maximum contaminant level for gross alpha with a RAA of 16 pCi/L. ETT Point Value = 5		
10*	Date: 05/19/2023 (1943032)		
	Self Report? NO	Classification: Moderate	
	Citation:		
	30 TAC Chapter 290, SubChapter F 290.108(F)(1)		
	Description: GA MCL 1Q2023 - During the 1st quarter of 2023 the system violated the maximum contaminant level for gross alpha with a RAA of 19 pCi/L. ETT Point Value = 5		
11	Date: 11/03/2023 (1943032)		
	Self Report? NO	Classification: Moderate	
	Citation:		
	30 TAC Chapter 290, SubChapter F 290.108(F)(1)		
	Description: GA MCL 2Q2023 - During the 2nd quarter of 2023 the system violated the maximum contaminant level for gross alpha with a RAA of 18 pCi/L. ETT Point Value = 5		

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

Appendix B
All Investigations Conducted During Component Period May 20, 2019 and May 20, 2024

Item 1	October 18, 2019**	(1602959)
Item 2	December 04, 2019**	(1612254)
Item 3	December 06, 2019**	(1612534)
Item 4	March 09, 2020**	(1618577)
Item 5	August 25, 2021**	(1750320)
Item 6	February 03, 2022**	(1788933)
Item 7	August 08, 2022**	(1833823)
Item 8	August 31, 2022**	(1839591)
Item 9	November 15, 2023	(1943032)
Item 10	November 17, 2023	(1943189)

* 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
LAKE LIVINGSTON WATER SUPPLY
CORPORATION
RN105711931

§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2023-1675-PWS-E

On _____, 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 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 Order to the Commission.

The Respondent understands that it 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 4415 Farm-to-Market Road 3216 in Livingston, Polk County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2,321 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(73).
2. During a record review for the Facility conducted on November 6, 2023 through November 17, 2023, 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 2022, 19 pCi/L for the first quarter of 2023, and 18 pCi/L for the second quarter of 2023.

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 \$2,875 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 \$2,875 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: Lake Livingston Water Supply Corporation, Docket No. 2023-1675-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, Texas 78753

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 as described in Ordering Provision No. 2.e below 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 a 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:

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

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

7/18/2024

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.

John N. Sexton

Signature

6-20-2024

Date

JOHN N. SEXTON

Name (Printed or typed)
Authorized Representative of
Lake Livingston Water Supply Corporation

Board President

Title

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

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