



Control Number: 44948



Item Number: 1

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DOCKET NO. 44948

PETITION TO REVOKE FARRAR §
WATER SUPPLY CORPORATION'S §
CERTIFICATE OF PUBLIC §
CONVENIENCE AND NECESSITY §
PURSUANT TO TEX. WATER CODE §
ANN. § 13.254 AND 16 TAC § 24.113 §
§

2015 JUL 16 PM 12:52
PUBLIC UTILITY COMMISSION
FILING CLERK
OF TEXAS

COMMISSION STAFF'S PETITION TO REVOKE
FARRAR WATER SUPPLY'S
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
AND
NOTICE OF OPPORTUNITY FOR A HEARING

NOW COMES the Staff (Staff) of the Public Utility Commission of Texas (Commission) and files this Petition (Petition) to revoke Farrar Water Supply Corporation's (Farrar) Certificate of Public Convenience and Necessity (CCN) and hereby provides notice of the opportunity to request a hearing on the merits of this Petition.

I. INTRODUCTION

For the reasons discussed below, Farrar's CCN No. 12429 should be revoked. In the event Farrar fails to request a hearing within thirty days of service of this Petition, a default order should be issued, without additional notice to Farrar, granting all relief sought in this Petition. In support of this Petition, the Staff respectfully shows the following:

II. JURISDICTION AND LEGAL AUTHORITY

A CCN is defined as "a permit issued by the commission which authorizes and obligates a retail public utility to furnish, make available, render, or extend continuous and adequate retail water or sewer service to a specified geographic area."¹ A retail public utility is "any person corporation, public utility, water supply or sewer service corporation, municipality, political subdivision or agency operating, maintaining, or controlling in this state facilities for providing potable water service or sewer service, or both for compensation."² A retail public utility that possesses a CCN is required to provide "continuous and adequate service."³

¹ 16 Tex. Admin.Code § 24.3(10).

² 16 TAC § 24.3(41).

³ TEX. WATER CODE ANN. § 13.250 (West Supp. 2014) (TWC) and 16 TAC § 24.114.

A retail public utility that possesses a CCN and fails to provide continuous and adequate service may be subject to revocation.⁴ The Commission is authorized to regulate and supervise the business of each water and sewer utility within its jurisdiction.⁵ As part of this authority, the Commission, "after notice and hearing, may revoke or amend any" CCN if the commission finds that "the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate."⁶

Pursuant to the contested case provisions of the Administrative Procedure Act,⁷ a party is entitled to an opportunity for a hearing after reasonable notice of not less than 10 days, where the party may respond to and present evidence and argument on each issue involved in the case. If a hearing is not requested within thirty days after service of notice of an opportunity for hearing, a default occurs.⁸ Upon default, the presiding officer may issue a default order, revoking the certificate without a hearing on an informal basis.⁹

III. FACTUAL ALLEGATIONS

On January 15, 1991, Farrar was granted CCN No. 12429.¹⁰ Farrar is comprised of one public water system.¹¹ A public water system is defined as "a system for the provision to the public of water for human consumption through pipes or other constructed conveyances," such as "collection, treatment, storage, and distribution facilities," which has "at least 15 service connections or serve[s] at least 25 individuals at least 60 days out of the year."¹² A January 21, 2015 Default Order at the Texas Commission on Environmental Quality identified Rocky Wadlington as the owner and operator of the PWS associated with Farrar and Farrar's CCN.

⁴ TWC § 13.254.

⁵ TWC § 13.041. See also, House Bill 1600 and Senate Bill 567 83rd Legislature, Regular Session, which transferred the functions relating to the economic regulation of water and sewer utilities from the Texas Commission on Environmental Quality to the Public Utility Commission effective September 1, 2014.

⁶ TWC § 13.254.

⁷ Administrative Procedure Act, TEX. GOV'T CODE ANN. §§ 2001.001-.902 (West 2008 & Supp. 2014) (APA).

⁸ P.U.C. PROC. R. 22.183.

⁹ APA § 2001.056(4) and 16 TAC § 22.183.

¹⁰ The CCN covers an area about 15 miles southeast of downtown Goesbeck, TX (Attachment 1 and 2).

¹¹ See Affidavit of Patricia Garcia (Attachment 5).

¹² 30 TAC 290.38(66).

Additionally, the Texas Commission on Environmental Quality (TCEQ) Drinking Water Watch database lists Mr. Wadlington as the administrative contact for Farrar.¹³

The TCEQ successfully pursued four enforcement actions against Mr. Wadlington and the PWS associated with Farrar. All four enforcement actions were for violations of the Texas Health and Safety Code.¹⁴ Three enforcement actions resulted in default orders, one issued in 2012 and two issued in March of 2015. The fourth enforcement action was settled, and the settlement agreement was approved in 2013. Violations date back to 2006 with the last violation occurring in March 2014.¹⁵

On August 28, 2014, Mr. Wadlington, representing Farrar, attempted to sell all of Farrar's property, including the water system, to Simply Aquatics.¹⁶ A sale of any water system required to possess a CCN is void unless done in accordance with Texas Water Code § 13.301. After the attempted sale, Simply Aquatics assumed operation of the facility on September 1, 2014. Simply Aquatics attempted to cure past violations but was unable to collect rates sufficient to invest in repairs.

In order to file a rate increase, Simply Aquatics began paperwork to file an application for approval of a sale.¹⁷ Simply Aquatics could not contact Mr. Wadlington, which prevented Simply Aquatics from completing the required application and necessitated their discontinuing operations. In the absence of a completed application, Mr. Wadlington is the holder of CCN 12429, despite his sale of all the assets of Farrar.

Mr. Wadlington is unresponsive to not only Simply Aquatics, but also the TCEQ. Both enforcement actions finalized in 2015 resulted in default orders. In one of those, TCEQ Docket No. 2013-0347-MLM-E, Mr. Wadlington received notice three times, signing for the notice all three times, and failed to respond.

¹³ See

http://dww.tceq.state.tx.us/DWW/JSP/WaterSystemDetail.jsp?tinwsys_is_number=4320&tinwsys_st_code=TX&wsnumber=TX1470007%20%20%20&DWWState=TX

¹⁴ Tex. Health & Safety Code Ann. §§ 341.01-092.

¹⁵ TCEQ Dockets 2011-1230-PWS-E, 2012-1590-PWS-E, 2013-0347-MLM-E, and 2014-0360-PWS-E (Attachment 3).

¹⁶ See the Purchase Agreement (Attachment 4).

¹⁷ TWC § 13.301(g) permits the utility commission to approve a sale even if the applicant failed to file the application prior to the sale, as required by TWC § 13.301(a), if the Commission determines that the proposed transaction serves the public interest.

IV. RECOMMENDATION FOR REVOCATION

The Commission should revoke Farrar's CCN because Farrar has been abandoned by Mr. Wadlington and is incapable of providing continuous and adequate service. Mr. Wadlington's continuous failures to respond meets the Texas Water Code's definition of abandonment.¹⁸ Coupled with the litany of violations found by the TCEQ, Farrar is incapable of providing continuous and adequate service in its certificated area. As long as Farrar's CCN continues, it may be a violation of Commission rule for another company to provide service in Farrar's certificated area.¹⁹ For the above stated reasons, Staff recommends revocation of CCN No. 12429 pursuant to TEX. WATER CODE ANN. § 13.254 and 16 TAC § 24.113.

V. NOTICE OF OPPORTUNITY FOR HEARING

16 TAC § 22.54 and 22.55 require Staff to provide reasonable notice to persons affected by a proceeding in accordance with the Administrative Procedure Act²⁰. In license revocation proceedings, it is required that notice be given "by personal service or by registered or certified mail to the license holder of facts or conduct alleged to warrant the intended action."²¹ In order to proceed on a default basis, 16 TAC § 22.183 requires Staff to provide notice by certified mail, return receipt requested, to a certificate holder's last known address in the Commission's records or to the person's registered agent for process on file with the Secretary of State.

In accordance with these provisions, Staff will provide a copy of this petition by certified mail, return receipt requested, to Farrar's owner's last known address in the Commission's records²²:

Rocky Wadlington
311 West Navasota Street
Groesbeck, Texas 76642

Staff will also provide a copy of this petition by certified mail, return receipt requested, to the address used in the TCEQ proceedings²³:

Rocky Wadlington

¹⁸ TWC § 13.412. In a separate docket, Staff is moving to appoint a temporary manager because the utility has been abandoned.

¹⁹ See TWC § 13.242.

²⁰ APA §§ 2001.001-.902.

²¹ *Id.* at § 2001.054

²² See Affidavit of Patricia Garcia (Attachment 5).

²³ The TCEQ sent their notice of proceedings to two addresses, the first of which matches the Commission's records, and a second address which Staff has listed.

2523 Limestone County Road 800
Groesbeck, Texas 76642

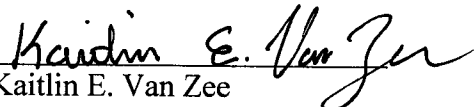
Pursuant to 16 TAC § 22.183, Staff hereby notifies Farrar that the factual allegations in this petition could be deemed admitted and the relief sought herein granted by default if Farrar fails to request a hearing within 30 days after service of the Petition. The purpose of a hearing on the merits is to consider revocation of Farrar's CCN No. 12429.

The factual allegations listed in Staff's Petition and Notice of Opportunity for a Hearing could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

VII. PRAYER

WHEREFORE, PREMISES CONSIDERED, the Staff respectfully requests that the Commission grant Staff's request to revoke Farrar's CCN No. 12429. In the event Farrar fails to request a hearing on the merits, Staff requests that the Commission issue a default final order, with no further notice to Farrar, revoking CCN No. 12429.

Respectfully Submitted,


Kaitlin E. Van Zee
Attorney, Oversight and Enforcement Division
State Bar No. 24080099
(512) 936-7065 T
(512) 936-7268 F
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

CERTIFICATE OF SERVICE

I certify that on July 17, 2015, pursuant to 16 TAC § 22.183(b)(2), a copy of this document was sent certified mail, return receipt requested, to the last known address of Farrar Utility Company in the Commission's records and to addresses used in the Texas Commission on Environmental Quality (TCEQ) proceedings:

Farrar's owner's Last Known Address in Commission Records:

Rocky Wadlington

311 West Navasota Street

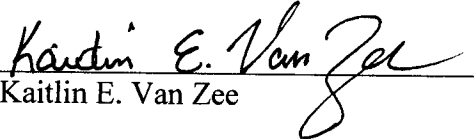
Groesbeck, Texas 76642

Additional Address used in TCEQ Proceedings:

Rocky Wadlington

2523 Limestone County Road 800

Groesbeck, Texas 76642


Kaitlin E. Van Zee

Attachment 1

Certificate of Convenience and Necessity No. 12429

THE STATE OF TEXAS
COUNTY OF TRAVIS
TEXAS WATER COMMISSION



I hereby certify that this is a true and correct copy of a Texas Water Commission Document, the original of which is filed in the permanent records of the Commission.

Given under my hand and the seal of office on
JAN 15 1991

Brenda W. Foster

Brenda W. Foster, Chief Clerk
Texas Water Commission

CERTIFICATE OF CONVENIENCE AND NECESSITY

To Provide Water Service Under V.T.C.A., Water Code
and Texas Water Commission Substantive Rules

Certificate No. 12429

I. Certificate Holder:

Name: Farrar Water Supply Corporation

Address: Route 1, Box 105
Donie, Texas, 75838

II. General Description and Location of Service Area:

The area covered by this certificate is located approximately 15 miles southeast of downtown Groesbeck, Texas on Farm to Market Road 39. The service area is generally bounded on the south by Farm to Market Road 1512 and on the northeast by the Limestone/Freestone County line in Limestone County, Texas.

III. Certificate Maps:

The certificate holder is authorized to provide water service in the area identified on the Commission's official water service area map, WRS-147, maintained in the offices of the Texas Water Commission, 1700 North Congress, Austin, Texas with all attendant privileges and obligations.

This certificate is issued subject to the rules and orders of the Commission, the laws of the State of Texas, conditions contained herein and may be revoked for violations thereof. The certificate is valid until amended or revoked by the Commission.

Issued Date: JAN 11 1991

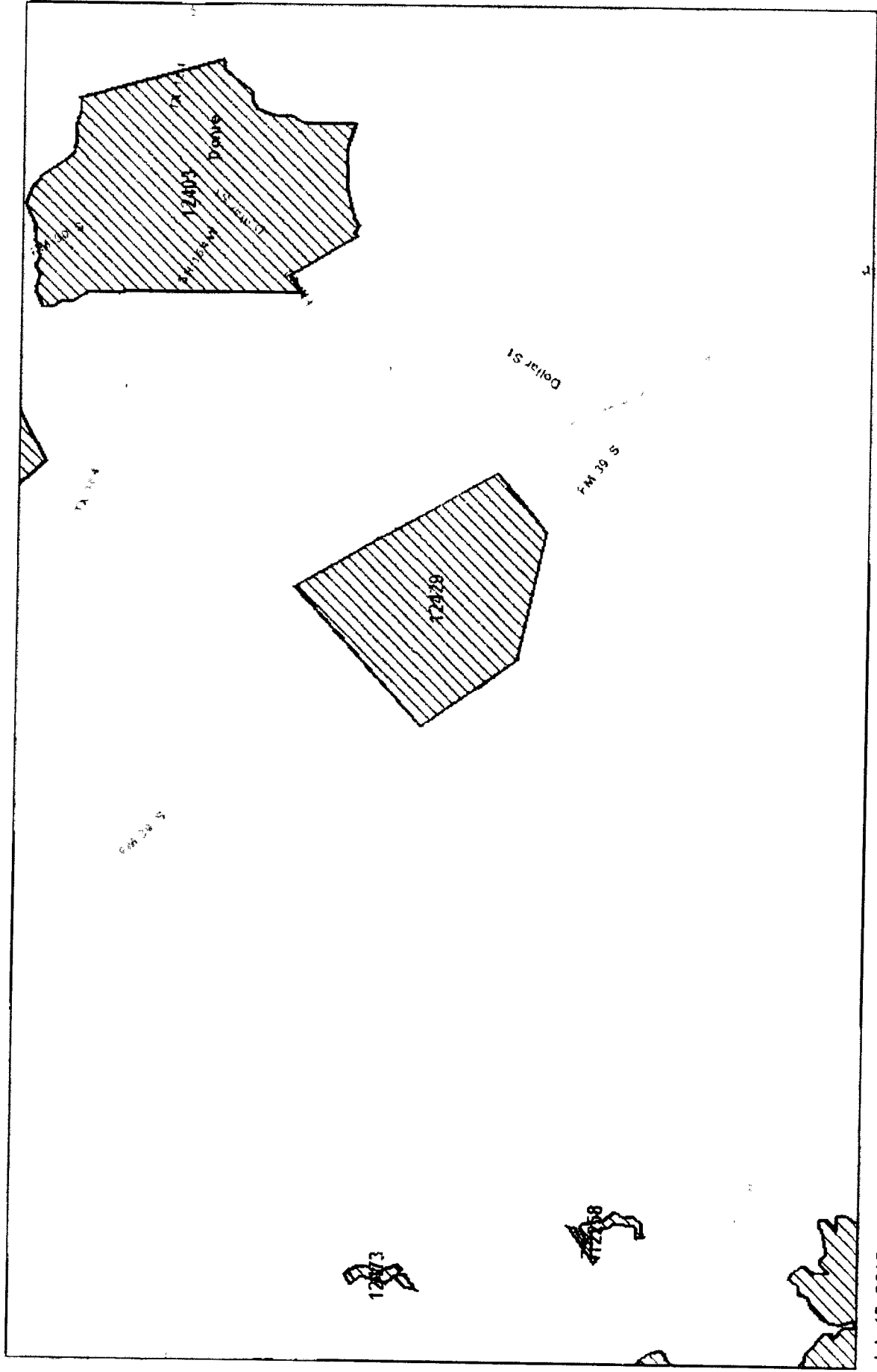
ATTEST:

Brenda W. Foster *Billy*
For the Commission

Attachment 2

Map of Certificate of Convenience and Necessity No. 12429

Farrar CCN Map



July 15, 2015

1:72,224

0 0.5 1 2 4 km

0 0 1 2 4 mi

Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand)

Attachment 3

TCEQ Dockets:

2011-1230-PWS-E, 2012-1590-PWS-E, 2013-0347-MLM-E, and
2014-0360-PWS-E

PWS/1470007/CO

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROCKY WADLINGTON AND
STEVEN STEWART D/B/A
FARRAR WATER SUPPLY
CORPORATION;
RN101441095

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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DEFAULT ORDER

DOCKET NO. 2011-1230-PWS-E

At its JUN 27 2012 agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to 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 respondents. The respondents made the subject of this Order are Rocky Wadlington ("Mr. Wadlington") and Steven Stewart ("Mr. Stewart") d/b/a Farrar Water Supply Corporation (collectively "Respondents").

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

FINDINGS OF FACT

1. Respondents own and operate a public water system located at the intersection of LCR 846 and LCR 848 in Farrar, Limestone County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 32 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(66).
2. During a record review conducted on June 6, 2011, TCEQ Central Office staff documented that Respondents:
 - a. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter, by the tenth day of the month following the end of the quarter. Specifically, Respondents did not submit DLQORs to the TCEQ for the first quarter of 2006 through the fourth quarter of 2010; and
 - b. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ, by July 1 of each year, a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, Respondents did not mail or directly deliver the CCRs to the Facility's customers nor did Respondents submit the CCR or the required certification to the TCEQ for the years 2008 and 2009.

3. Respondents received notice of the violations on or about June 15, 2011.
4. 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 Rocky Wadlington and Steven Stewart d/b/a Farrar Water Supply Corporation " (the "EDPRP") in the TCEQ Chief Clerk's office on October 17, 2011.
5. By letter dated October 17, 2011, sent to each Respondents' last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green card," Mr. Wadlington received notice of the EDPRP on October 18, 2011, as evidenced by the signature on the card. The United States Postal Service returned the EDPRP sent by certified mail to Mr. Stewart "unclaimed." The first class mail has not been returned, indicating that Mr. Stewart received notice of the EDPRP.
6. More than 20 days have elapsed since each Respondent received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondents failed to submit a DLQOR to the Executive Director each quarter, by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ, by July 1 of each year, a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a) and (c)(2).
5. As evidenced by Finding of Fact No. 6, Respondents failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

7. An administrative penalty in the amount of four thousand three hundred thirteen dollars (\$4,313.00) 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.
8. 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. Respondents are assessed an administrative penalty in the amount of four thousand three hundred thirteen dollars (\$4,313.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here.
2. The administrative 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Rocky Wadlington and Steven Stewart d/b/a Farrar Water Supply Corporation; Docket No. 2011-1230-PWS-E" to:

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

3. Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondents shall:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110; and
 - ii. Mail or directly deliver one copy of the 2010 CCR to each bill paying customer and submit to the TCEQ a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, as required by 30 TEX. ADMIN. CODE §§ 290.271 and 290.274. The copy of the CCR and the certification shall be mailed to:

CCR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Respondents shall:
- i. Submit written certification in accordance with Ordering Provision No. 3.d., below, to demonstrate compliance with Ordering Provision No. 3.a.; and
 - ii. Begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 Tex. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be mailed to:

DLQOR Coordinator
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 105 days after the effective date of this Order, Respondents shall submit written certification in accordance with Ordering Provision No. 3.d, below, to demonstrate compliance with Ordering Provision No. 3.b.ii.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, 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."

Respondents shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

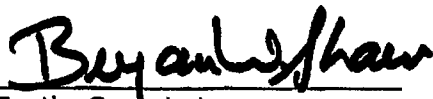
and:

Frank Burleson, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Suite 2500
Waco, Texas 76710-7826

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondents if the Executive Director determines that Respondents has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. The Chief Clerk shall provide a copy of this 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



For the Commission

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

July 3, 2012

MAILED VIA CERTIFIED MAIL
AND VIA FIRST CLASS MAIL

Rocky Wadlington
Farrar Water Supply Corporation
311 West Navasota Street
Groesbeck, Texas 76642-1715

Steven Stewart
Farrar Water Supply Corporation
521 Cedar Street
Teague, Texas 75860-1615

RE: Rocky Wadlington and Steven Stewart dba Farrar Water Supply Corporation
TCEQ Docket No. 2011-1230-PWS-E; Registration No. 1470007
Default Order Assessing Administrative Penalties and Requiring Certain Action

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Enforcement Coordinator or the Staff Attorney. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Texas Commission on Environmental Quality's Office of the Chief Clerk (MC 105) at (512) 239-3319.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

cc: Frank Burleson, Regional Contact, TCEQ Regional Office
Jeffrey Huhn, Staff Attorney, TCEQ Litigation Division
Rebecca Clausewitz, Enforcement Coordinator, TCEQ Enforcement Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROCKY WADLINGTON D/B/A
FARRAR WATER SUPPLY
CORPORATION;
RN101441095**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-1590-PWS-E

I. JURISDICTION AND STIPULATIONS

On July 23, 2013, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Rocky Wadlington d/b/a Farrar Water Supply Corporation ("Respondent") under the authority of TEX. WATER CODE ch. 5 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates a public water system located at the intersection of Limestone County Road 846 and Limestone County Road 848 in Farrar, Limestone County, Texas (the "Facility"). The Facility provides water for human consumption, has 16 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(66).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE § 7.070 and TEX. HEALTH & SAFETY CODE § 341.049. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of one thousand fifteen dollars (\$1,015.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred fifteen dollars (\$115.00) of the administrative penalty. The remaining amount of nine hundred dollars (\$900.00) of the administrative penalty shall be payable in nine (9) monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to

timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During a record review conducted on June 25, 2012, TCEQ Central Office staff documented that Respondent:
 - a. Failed to provide the results of sexennial volatile organic chemical ("VOC") contaminant sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.107(e). Specifically, Respondent failed to provide VOC contaminant sampling results for the six year reporting period from January 1, 2005, through December 31, 2010;
 - b. Failed to provide the results of triennial Stage 1 disinfectant byproducts, metal, and mineral sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.113(e). Specifically, Respondent failed to provide Stage 1 disinfectant byproduct sampling results for the reporting period from January 1, 2007, through December 31, 2009, and metal and mineral sampling results for the reporting period from January 1, 2008, through December 31, 2010;
 - c. Failed to provide the results of annual nitrate/nitrite sampling to the Executive Director for the 2010 reporting period, in violation of 30 TEX. ADMIN. CODE § 290.106(e);
 - d. Failed to provide the results of annual Stage 1 disinfectant byproducts sampling to the Executive Director for the 2010 reporting period, in violation of 30 TEX. ADMIN. CODE § 290.113(e);

- e. Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 91470007 for Fiscal Years 2011 through 2012, in violation of Tex. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6);
 - f. Failed to provide the results of triennial synthetic organic chemical ("SOC") contaminant sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.107(e). Specifically, Respondent failed to provide SOC contaminant sampling results for the triennial reporting period from January 1, 2009, through December 31, 2011; and
 - g. Failed to provide the results of annual nitrate/nitrite sampling to the Executive Director for the 2011 reporting period, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
2. Respondent received notice of the violations on or about July 10, 2012.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Rocky Wadlington d/b/a Farrar Water Supply Corporation, Docket No. 2012-1590-PWS-E" to:

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

2. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Ensure that all delinquent drinking water chemical monitoring reports are submitted to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 Tex. ADMIN. CODE §§ 290.106 (Inorganic Contaminants), 290.107 (Organic Contaminants), and 290.113 (Disinfectant Byproducts);
 - ii. Implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic

Contaminants), 290.107 (Organic Contaminants), and 290.113 (Disinfectant Byproducts); and

- iii. Submit payment for all outstanding fees, interest and penalties for TCEQ Financial Administration Account No. 91470007. The payment shall be sent with the notation "Farrar Water Supply Corporation, TCEQ Financial Administration Account No. 91470007" 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.

- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.iii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, 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."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

N/A - Delegated to ED

For the Commission

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Rocky Wadlington d/b/a Farrar Water Supply Corporation, 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 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;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Signature: Rocky Wadlington

Date

Sign & Return
Please

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

July 25, 2013

Via Certified Mail, Return Receipt Requested, Article Number 7012 3460 0000 1643 4878

Rocky Wadlington
Farrar Water Supply Corporation
311 West Navasota Street
Groesbeck, Texas 76642-1715

Re: TCEQ Enforcement Action
Rocky Wadlington d/b/a Farrar Water Supply Corporation
Docket No. 2012-1590-PWS-E

Dear Mr. Wadlington:

Enclosed for your records is a fully-executed copy of the Agreed Order for the above-referenced matter. The first monthly payment of one hundred dollars (\$100.00) will be due within 30 days from the date of this letter. Thereafter, subsequent payments will be due within 30 days following the due date of the previous payment until paid in full. To ensure that payments are credited properly, the docket number should be written in the "memo" line of each check. If you have any questions you may contact me at the TCEQ Litigation Division at (512) 239-3400 or my e-mail address listed below.

Sincerely,

A handwritten signature in black ink, appearing to read "Ph. M. Goodwin".

Phillip M. Goodwin, P.G., Staff Attorney
Litigation Division
phillip.goodwin@tceq.texas.gov

Enclosures

cc: Katy Montgomery, Enforcement Division
David Van Soest, Waco Regional Office
Eli Martinez, Public Interest Counsel
Lena Roberts, Litigation Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROCKY WADLINGTON;
RN101441095

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2013-0347-MLM-E

At its JAN 21 2015 agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Third Amended Report and Petition, filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 11, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Rocky Wadlington ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a public water system located at the intersection of Limestone County Road 846 and Limestone County Road 848 in Limestone County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 16 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(66). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(50).
2. During investigations conducted on June 2, 2005, February 18, 2009, and May 4, 2012, and a record review conducted on December 13, 2012, a TCEQ Waco Regional Office investigator documented that Respondent violated the following requirements:
 - a. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference. Specifically, the Facility did not have a plant operations manual; and
 - b. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies. Specifically, the Facility did not have a distribution system map available for review.
3. During investigations conducted on February 18, 2009 and May 4, 2012, and a record review conducted on December 13, 2012, a TCEQ Waco Regional Office investigator documented that Respondent violated the following requirements:
 - a. Failed to inspect the ground storage tank ("GST") annually. Specifically, the Facility's GST had not been inspected in the prior 12 months;
 - b. Failed to inspect the pressure tank annually. Specifically, the Facility's pressure tank had not been inspected in the prior 12 months;
 - c. Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days. Specifically, the disinfectant residual was only being monitored once per month;

- d. Failed to calibrate the Facility's well meter at least once every three years. Specifically, no well meter calibration records were provided;
 - e. Failed to equip the GST with a water level indicator. Specifically, the water level indicator was inoperable; and
 - f. Failed to adopt a Drought Contingency Plan which includes all elements for municipal use by a retail public water supplier.
4. During an investigation conducted on May 4, 2012, and a record review conducted on December 13, 2012, a TCEQ Waco Regional Office investigator documented that Respondent violated the following requirements:
- a. Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, the Facility was not keeping a record of the amount of water treated each week and a record of the amount of chemicals used each week to treat the water;
 - b. Failed to flush all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels;
 - c. Failed to develop, maintain and make available for Executive Director review upon request an accurate and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements. Specifically, there was not a chemical and microbiological monitoring plan available for review;
 - d. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted. Specifically, there was not a plumbing ordinance or service agreement in place;
 - e. Failed to have an internal procedure to notify the Executive Director by a toll-free reporting phone number immediately following certain events that may negatively impact the production or delivery of safe and adequate drinking water;
 - f. Failed to provide the overflow on the GST with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch. Specifically, the overflow piping did not have a cover;
 - g. Failed to provide an intruder-resistant fence to protect the Facility's well sites. Specifically, the fence had a gap that would allow intruder access;
 - h. Failed to completely cover the hypochlorination solution container top to prevent the entrance of dust, insects, and other contaminants. Specifically, the hypochlorination solution container had an opening on the top where the feed tube is located that could allow contamination to enter the container; and
 - i. Failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment. Specifically, the main plant was overgrown with vegetation.
5. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of September 1, 2014.

6. 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 Rocky Wadlington d/b/a Farrar Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on September 19, 2013.
7. By letter dated September 19, 2013, 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 the return receipt "green card," Respondent received notice of the EDPRP on September 23, 2013, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended 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 Rocky Wadlington d/b/a Farrar Water Supply Corporation" (the "EDFARP") in the TCEQ Chief Clerk's office on September 30, 2013.
9. By letter dated September 30, 2013, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on October 2, 2013, as evidenced by the signature on the card.
10. The Executive Director filed the "Executive Director's Second Amended 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 Rocky Wadlington d/b/a Farrar Water Supply Corporation" (the "EDSARP") in the TCEQ Chief Clerk's office on October 29, 2013.
11. By letter dated October 29, 2013, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDSARP. According to the return receipt "green card," Respondent received notice of the EDSARP on November 4, 2013, as evidenced by the signature on the card.
12. The Executive Director filed the "Executive Director's Third Amended 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 Rocky Wadlington d/b/a Farrar Water Supply Corporation" (the "EDTARP") in the TCEQ Chief Clerk's office on September 26, 2014.
13. By letter dated September 26, 2014, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDTARP. According to the return receipt "green card," Respondent received notice of the EDTARP on October 6, 2014, as evidenced by the signature on the card.
14. More than 20 days have elapsed since Respondent received notice of the EDPRP, EDFARP, EDSARP, and EDTARP. 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. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 11, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 2.a., Respondent failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).
4. As evidenced by Finding of Fact No. 3.a., Respondent failed to inspect the GST annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
5. As evidenced by Finding of Fact No. 3.b., Respondent failed to inspect the pressure tank annually, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).
6. As evidenced by Finding of Fact No. 3.c., Respondent failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(A).
7. As evidenced by Finding of Fact No. 3.d., Respondent failed to calibrate the Facility's well meter at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
8. As evidenced by Finding of Fact No. 3.e., Respondent failed to equip the GST with a water level indicator, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4).
9. As evidenced by Finding of Fact No. 3.f., Respondent failed to adopt a Drought Contingency Plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B).
10. As evidenced by Finding of Fact No. 4.a., Respondent failed to provide Facility records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE §§ 290.46(f)(2), (f)(3)(A)(I)(III), and (f)(3)(A)(II)(III).
11. As evidenced by Finding of Fact No. 4.b., Respondent failed to flush all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels, in violation of 30 TEX. ADMIN. CODE § 290.46(l).
12. As evidenced by Finding of Fact No. 4.c., Respondent failed to develop, maintain and make available for Executive Director review upon request an accurate and up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the Facility will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
13. As evidenced by Finding of Fact No. 4.d., Respondent failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 TEX. ADMIN. CODE § 290.46(l).
14. As evidenced by Finding of Fact No. 4.e., Respondent failed to have an internal procedure to notify the Executive Director by a toll-free reporting phone number immediately following certain events that may negatively impact the production or delivery of safe and adequate drinking water, in violation of 30 TEX. ADMIN. CODE § 290.46(w).

15. As evidenced by Finding of Fact No. 4.f., Respondent failed to provide the overflow on the GST with a gravity-hinged and weighted cover that fits tightly with no gap over 1/16 inch, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(3).
16. As evidenced by Finding of Fact No. 4.g., Respondent failed to provide an intruder-resistant fence to protect the Facility's well sites, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O).
17. As evidenced by Finding of Fact No. 4.h., Respondent failed to completely cover the hypochlorination solution container top to prevent the entrance of dust, insects, and other contaminants, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(5).
18. As evidenced by Finding of Fact No. 4.i., Respondent failed to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the Facility and its equipment, in violation of 30 TEX. ADMIN. CODE § 290.46(m).
19. As evidenced by Findings of Fact Nos. 6 through 13, the Executive Director timely served Respondent with proper notice of the EDPRP, EDFARP, EDSARP, and EDTARP, as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.104(b)(1).
20. As evidenced by Finding of Fact No. 14, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 11.0842, 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.
21. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 11.0842, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
22. An administrative penalty in the amount of five thousand three hundred sixty-seven dollars (\$5,367.00) 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 and TEX. WATER CODE § 11.0842.
23. 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 five thousand three hundred sixty-seven dollars (\$5,367.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here.

2. The administrative 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: Rocky Wadlington; Docket No. 2013-0347-MLM-E" to:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
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 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.
6. 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.
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. The Chief Clerk shall provide a copy of this 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.

Rocky Wadlington
Docket No. 2013-0347-MLM-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY


For the Commission

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

March 19, 2015

MAILED VIA CERTIFIED MAIL
AND VIA FIRST CLASS MAIL

Rocky Wadlington
2523 Limestone County Road 800
Groesbeck, Texas 76642

Rocky Wadlington
311 West Navasota Street
Groesbeck, Texas 76642-1715

RE: Rocky Wadlington
TCEQ Docket No. 2013-0347-MLM-E; Registration No. 1470007
Default Order Assessing Administrative Penalties

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Office of the Chief Clerk at (512) 239-3319.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

cc: Jim Sallans, Staff Attorney, TCEQ Litigation Division
Katy Montgomery, Enforcement Coordinator, TCEQ Enforcement Division
Richard Monreal, Regional Contact, TCEQ Regional Office

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City, State, ZIP+4

PS Form 3800, August 2005

See Reverse for Instructions

2013-0347-MLM-E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROCKY WADLINGTON;
RN101441095

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2014-0360-PWS-E

At its **JAN 21 2015** agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, 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 Rocky Wadlington ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a public water system located at the intersection of Limestone County Road 846 and Limestone County Road 848 near Donle, Limestone County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 16 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(66).
2. During record reviews conducted on January 15, 2014, and March 17 through March 28, 2014, TCEQ Central Office staff documented that Respondent failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for the year 2012.
3. During a record review conducted March 17 through March 28, 2014, TCEQ Central Office staff documented that Respondent:
 - a. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and provide the results to the Executive Director. Specifically, Respondent failed to collect the required lead and copper samples for the January 1, 2002 through December 31, 2010; January 1, 2011 through December 31, 2011; and January 1, 2013 through December 31, 2013 monitoring periods;
 - b. Failed to provide public notification regarding the failure to: provide the Executive Director a copy of the Disinfectant Level Quarterly Operating Report ("DLQOR") for the first quarter of 2011; conduct routine coliform monitoring for the months of December 2012, March 2013, and July 2013; and conduct nitrate monitoring for the second quarter of 2013;
 - c. Failed to provide the results of triennial radionuclides sampling to the Executive Director for the January 1, 2011 through December 31, 2013 monitoring period; and

- d. Failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 91470007 for Fiscal Years 2013 through 2014.
4. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of September 1, 2014.
5. 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 Rocky Wadlington d/b/a Farrar Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on July 21, 2014.
6. By letter dated July 21, 2014, 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 July 23, 2014, as evidenced by the signature on the certified mail "green card."
7. 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. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c); and TCEQ Default Order Docket No. 2011-1230-PWS-E, Ordering Provision No. 3.a.ii.
3. As evidenced by Finding of Fact No. 3.a., Respondent failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory, and provide the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1)¹.
4. As evidenced by Finding of Fact No. 3.b., Respondent failed to provide public notification regarding the failure to: provide the Executive Director a copy of the DLQOR; conduct routine coliform monitoring; and conduct nitrate monitoring, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A).
5. As evidenced by Finding of Fact No. 3.c., Respondent failed to provide the results of triennial radionuclides sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.108(e).
6. As evidenced by Finding of Fact No. 3.d., Respondent failed to pay Public Health Service fees for TCEQ Financial Administration Account No. 91470007, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).

¹ Effective May 15, 2011, 30 TEX. ADMIN. CODE § 290.117 was amended and the requirements in 30 TEX. ADMIN. CODE §§ 290.117(c)(2) and (i)(1) were added. 36 TEX. REG. 2860. Previously, the requirements in 30 TEX. ADMIN. CODE §§ 290.117(c)(2) and (i)(1) were required of Respondent under 30 TEX. ADMIN. CODE §§ 290.117(a)(2)(A) and (m)(1)(B) (effective Jan. 9, 2008) and 40 C.F.R. §§ 141.86(c), (d)(ii), and (f)(2)(2007).

7. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by Tex. Health & Safety Code § 341.049 and 30 Tex. Admin. Code § 70.104(b)(1).
8. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to 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.
9. Pursuant to 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.
10. An administrative penalty in the amount of two thousand three hundred sixty-five dollars (\$2,365.00) 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.
11. 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 two thousand three hundred sixty-five dollars (\$2,365.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here.
2. The administrative 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: Rocky Wadlington; Docket No. 2014-0360-PWS-E" to:

Financial Administration Division, Revenues 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 30 days after the effective date of this Agreed Order, Respondent shall submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91470007 (Conclusion of Law No. 6). The payment shall be sent with the notation "Farrar Water Supply Corporation, TCEQ Financial Administration Account No. 91470007" to the address listed in Ordering Provision No. 2.
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.
7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this 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

Bryan W. Shaw, Ph.D., *Chairman*
Carlos Rubinstein, *Commissioner*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

March 19, 2015

MAILED VIA CERTIFIED MAIL
AND VIA FIRST CLASS MAIL

Rocky Wadlington
2523 Limestone County Road 800
Groesbeck, Texas 76642

Rocky Wadlington
311 West Navasota Street
Groesbeck, Texas 76642-1715

RE: Rocky Wadlington
TCEQ Docket No. 2014-0360-PWS-E; Registration No. 1470007
Default Order Assessing Administrative Penalties

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Leslie Gann of the Office of the Chief Clerk at (512) 239-3319.

Sincerely,

Bridget C. Bohac

Bridget C. Bohac
Chief Clerk

BCB/lg

Enclosure

cc: Katy Montgomery, Enforcement Coordinator, TCEQ Enforcement Division
Laura Evans, Staff Attorney, TCEQ Litigation Division
Richard Monreal, Regional Contact, TCEQ Regional Office

7013 3020 0000 8380 9529

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ROCKY WADLINGTON
311 W NAVASOTA ST
GROESBECK TX 76642-1715

Sent To
Street, Apt. No., or PO Box No.
City, State, ZIP+4

PS Form 3800, August 2006 See Reverse for Instructions

2014-0360-PWS-E

Attachment 4

Purchase Agreement

SIMPLY AQUATICS, INC.

P.O. Box 849
Kirbyville, TX 75956

Robyn Lyons:
TELEPHONE: (409) 420-0774 ext. 102
FAX: (409) 420-0776
wrkeck6@aol.com

FAX COVER SHEET

DATE: 10-16-14

TO: TCEB

ATTENTION: Laura Evans

FROM: Robyn Lyons

RECIPIENT FAX #: 512-239-3434

PAGES (INCLUDING COVER PAGE): (8)

COMMENTS:

If you need additional info let
me know. Thanks!

THE STATE OF TEXAS

STOCK PURCHASE AGREEMENT

COUNTY OF NEWTON

THIS STOCK PURCHASE AGREEMENT (the "Agreement") executed effective the 1st day of September, 2014, by and between ROCKY WADLINGTON OF FARRAR WSC, hereinafter called "Seller", and SIMPLY AQUATICS, INC, hereinafter called "Purchaser".

WITNESSETH:

WHEREAS, the Seller has agreed to sell to Purchaser FARRAR WSC that consists of 1 – potable water treatment plant and 1 – distribution system that is located in or near Limestone County, TX;

WHEREAS, the Seller has offered to sell to Purchaser FARRAR WSC that consists of 1 – potable water treatment plant and 1 – distribution system that is located in or near Limestone County, TX, for the purchase price and upon the terms and conditions hereinafter set forth, and subject to all the terms and conditions hereof

NOW, THEREFORE, in consideration of the premises and of the mutual covenants of the parties herein made, and upon the terms and conditions herein set out, it is hereby agreed by and between the parties hereto as follows:

I.

CLOSING DATE

The closing date of the sale herein provided for shall be effective as of September 1, 2014, (the "Closing Date").

II.

PROPERTY TO BE TRANSFERRED

Seller shall give to Purchaser all property that FARRAR WSC owns in consideration of the agreement of Purchaser.

III.

PAYMENT OF PURCHASE PRICE

Purchaser agrees to purchase FARRAR WSC at a cost of \$10.00 this will be given to the Seller during this transaction, Seller agrees to pay and discharge all fees and expenses of the corporation due and owing in connection with its operations occurring prior to September 1, 2014, and Purchaser agrees to indemnify and hold harmless Seller for all debts, obligations and liabilities of the Company arising from and after September 1, 2014.

IV.

REPRESENTATIONS AND WARRANTIES

(1) Seller represents and warrants to Purchaser as follows:

- A. That the Company is duly incorporated, validly existing and in good standing under the laws of the State of Texas. The Company has all requisite power and authority to own, lease and operate its properties and carry on its business as now being conducted. The Company does not have any subsidiaries.
- B. That Seller represents and warrants that he has all requisite authority and capacity to enter into and perform this Agreement, and this Agreement constitutes a valid and binding legal obligation of Seller enforceable in accordance with the terms hereof.
- C. Farrar WSC is free and clear of any liens or other encumbrances.
- D. That to Seller's knowledge there are no claims or demands of any kind against the Seller as the representative of Company, for or on account of any personal injuries or property damage or other matters and things whatsoever, which have not been brought to the attention of Purchaser, and there are no facts or circumstances known to Seller which would reasonably constitute the basis of any such claim or demand; that there are no judicial or quasi-judicial actions, suits, or proceedings pending or threatened against the Seller, or their ownership thereof.
- E. That as of the date of Closing, the Company will have no outstanding liabilities or obligations.
- F. Beginning September 1, 2014 the Buyer will immediately take over ownership of FARRAR WSC which includes; operations, maintenance, management of the water system.

- (2) Purchaser represents and warrants to Seller that the Purchaser has full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby.

V.

BROKERAGE; FINDER FEES

Purchaser and Seller represent and warrant that there are no brokerages or finder's fees due to any person or entity as a result of this sale.

VI.

CLOSING

Simultaneously with execution of this Agreement, Seller shall deliver to Purchaser certificate or certificates duly endorsed for the Purchased Shares, and Seller's resignations as officers and directors of the Purchaser. The Purchaser shall deliver to Seller a note in the amount of the Purchase Price.

VII.

SURVIVAL OF REPRESENTATIONS AND WARRANTIES

All representations, warranties, covenants and agreements of the Seller and Purchaser herein set forth, and all certificates and documents delivered pursuant hereto and in connection with this Agreement shall survive, until the expiration of the applicable statute of limitations, the closing of this transaction and the same shall be deemed to have been material and to have been relied upon by the party to whom directed. In case of any breach of representation, warranty, covenant or agreement, the breaching party agrees to make payment to the aggrieved party in cash at Kirbyville, Newton County, Texas of any sums that the aggrieved party may suffer as a result of any such breach, provided that there shall be no liability on the part of the breaching party unless such matter for which payment is sought shall have been brought to the attention of the breaching party by the aggrieved party in writing in time sufficient for the breaching party to file a timely answer and appear and defend against any such alleged breach; in this connection, the aggrieved party will give every cooperation to the breaching party in making such defense in third party actions.

The representations and warranties herein shall apply only to those facts and circumstance which are to the sole knowledge of the Party making such representation and warranty. To the extent that any other Party is aware of or has knowledge of any fact or circumstance that is the subject of such representation or warranty, no Party shall be bound or held responsible for the breach of any such representation or warranty.

VIII.**MISCELLANEOUS**

- (1) Seller will at closing deliver to Buyer copies of the books of account for the company complete through September 1, 2014.
- (2) Buyer agrees that he will be responsible for notifying the Internal Revenue Service and Secretary of State of the State of Texas of the change of address for the Company and the change of officers and directors of the Company. The Buyer agrees that he will upon the Closing file a change of registered office and agent with the Secretary of State of the State of Texas.
- (3) Buyer agrees that he will be responsible for notifying the TECQ of (i) the change of officers and directors of the Company, and (ii) the change of address of the Company for notification purposes.
- (4) Buyer agrees that he will be responsible for notifying the customers of the Company of the change of officers of the Company and the change of address for the Company.
- (5) Buyer will be responsible for notifying the Company's vendors that the ownership of the Company has changed, that the officers and directors of the Company have changed, and that the address of the Company has changed.
- (6) Seller will be responsible for the income tax due on the earnings of the Company from January 1, 2014 through August 31, 2014, and Buyer will be responsible of the tax due on the earnings of the Company from September 1, 2014 through December 31, 2014.

IX.**GOVERNING LAW**

This Agreement is executed, delivered and intended to be performed in Newton County, Texas and shall be construed and enforced in accordance with and shall be governed by the laws of the State of Texas, in all respects, including matters of validity and performance.

X.**PERSONS BOUND**

All covenants, conditions, undertakings, agreements, obligations, liabilities, rights and powers entered into, made and granted, assumed and undertaken by each of the respective parties hereto in and by this Agreement shall be binding, be applicable to and shall inure to the heirs, executors, administrators, devisees, legatees, assigns and successors of the parties hereto by respectively, whether so particularly provided herein or not in each particular instance.

XI.**COUNTERPARTS**

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

XII.**ENTIRE AGREEMENT**

This Agreement and the documents delivered pursuant to this Agreement constitute the sole and only agreement of the parties hereto and supersede any prior understanding or written or oral agreements between the parties. No amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

XIII.**FURTHER INSTRUMENTS**

From time to time, at the request of Purchaser (whether at or after closing), and without further consideration, Seller shall execute and deliver such further instruments of conveyance and transfer and will take such actions as Purchaser may reasonably request in order to more effectively convey and transfer FARRAR WSC.

XIV.**NOTICE**

Any notice required or permitted to be given hereunder shall be in writing and shall be delivered personally or sent by certified mail, postage prepaid, to such parties last known address.

XV.**INVALIDITY**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

XVI.**LITIGATION COSTS**

Should any litigation be commenced between the parties to this Agreement concerning this Agreement or the rights and duties of either in relation thereto, the party, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for attorneys' fees in such litigation.

XVII.**EXPENSES**

Except as specifically set forth herein, each of the parties shall bear all expenses incurred by them in connection with this Agreement and in the consummation of transaction contemplated hereby and in preparation hereof.

XVIII.**HEADINGS**

The captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any article, section or paragraph thereof.