



Control Number: 53811



Item Number: 1

Arizona Traders Co.

1104 E. San Antonio Ave.
El Paso, TX 79901
P: 915-400-8636 F: 915-302-4360
arizonatradersco@gmail.com

2022 JUL 11 AM 9:25

FILING CLERK

July 07, 2022

53811

Public Utility Commission of Texas
Central Records
1701 N. Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

RE: Formal Complaint

Account Holder: John C. Gilliland (Arizona Traders Co.)
Account Number: 4140710000
Servicing Address: 1104 E. San Antonio Ave.
El Paso, TX 79901
915-400-8636

Attn: Filing Clerk,

This is in regards to El Paso Water Utilities.

On April 22, 2022 we received a letter letting us know that our water services have been shut off. The PUC of Texas states that a disconnection date must be sent via email or hand delivered 10 days before the date the notice of disconnection is issued, which we did not receive. There was no letter of any form letting us know their intent on disconnection, our water bill had been paid and did not have any late fees pending.

We sent an informal complaint to the PUC on June 10, 2022 [Complaint No: CP2022060454] and was notified that it would take up to 15 days to receive a response. On July 5, 2022 we received a response from an investigator working for the PUC letting us know that El Paso Water Utilities did not respond to our informal complaint. The investigator informed us that we would be able to submit a formal complaint since they did not respond. Enclosed is a copy of the original informal complaint [CP2022060454] as well as a copy of the letter from Nancy Nye notifying us that our water has been turned off without prior notice.

We would like to also request an investigation of Nancy Nye, head of the wastewater division of the El Paso Water Utilities. She has used manufactured violations to justify turning our water off. This is in retaliation for a criminal investigation we began last June of her forcing us to help her falsify the results of a 5 year audit of her division in 2012. We had reported violations by 2 of her inspectors, Rudy Peña and Manny when they monitored our manhole that went back more than 10 years. The day after we had reported the violations to Sonia Wyatt, Nancy sent Rick Pedregon to my office to tell me that she would not close my business if I said nothing when she and the 5 year inspector from the TCEQ came to my office in 2 weeks. I complied and was amazed that I had been threatened in

this manner. For the next 8 years she deleted, erased, and covered up all violations by Arizona Traders to stop us from revealing the agreement. This is shown in a printout of violations which my lawyer obtained from her.

In 2020 she began inspections again with up to 3 trucks a day in our back work area for 7 months. After 6 months there were no violations and she had an inspector manufacture one. For the next year we had to deal with this every day, and in June of 2021 she had Sonia Wyatt tell us without any justification or violations to close our back work area. Copies of emails are enclosed which are highlighted in yellow which show the invention of this without justification. Original emails are on file.

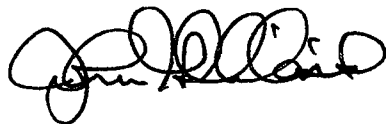
After this in June of 2021 we had Lorinda Garnder of the local TCEQ begin the criminal investigation of her. Everything since then has been retaliation for this investigation.

Many companies are very frightened about what Nancy Nye has been able to do to us over a period of 10 years, including communicating through Rick Pedregon that she would close our business in 2012, which is what she is now trying to do with the help of the Public Service Board who are all aware of the criminal investigation.

A copy of our answer to the turning off of our water is attached which explains why she acted against us.

THE TOP LINES OF THIS COPY ARE HIGHLIGHTED IN YELLOW AS ARE COPIES OF EMAILS AND A COPY OF VIOLATIONS FOR ARIZONA TRADERS FROM 2009-2020.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Gilliland", with a stylized, cursive script.

John C. Gilliland
President of Arizona Traders Co.

Arizona Traders Co.

1104 E. San Antonio Ave.

El Paso, TX 79901

P: 915-400-8636 F: 915-302-4360

arizonatradersco@gmail.com

July 07, 2022

ANSWER TO TURNING OFF WATER

Public Utility Commission of Texas
Central Records
1701 N. Congress Avenue
P.O. Box 13326
Austin, TX 78711-3326

RE: John Gilliland
Arizona Traders Company

Attn: Filing Clerk,

Receipt of your letter and attachments of May 16, 2022 are acknowledged. I have reviewed the letter and the Compliance Agreement and we have to respectfully decline the Compliance Agreement.

The Compliance Agreement had two provisions in it that will not be accepted.

“(E) The Company agrees to fill with cement the sand trap that is being used as a holding tank to catch rinse water and to pave the surrounding area in the outdoor courtyard area with cement to prevent the accumulation of water in those areas, and

(F) The Company agrees to immediately cease all work outdoors in all non-enclosed areas, and to enclose and contain all byproducts of work done within the confines of a permanent enclosure.”

I need to ask what authority El Paso Water has to require the two conditions. Each notice of violation has a recitation of statutory and code sections which is supposed to inform the violator of what law has been violated. However, the recitation of the various codes, statutes and ordinances is so general as to be meaningless. Hence, it is not possible to pinpoint the authority of El Paso Water to require the enclosing of the rear work area or the cementing of the sediment/rinse water holding tank which has a cement bottom.

Furthermore, El Paso Water's position is confusing because Arizona Traders has a valid Stormwater permit from TCEQ for the back area and specifically the holding tank. The industrial code 339911 which Arizona Traders works under allows the use of an outside work area.

Many of the violations for metal discharges are said to be taken from the sewer and instead were taken from the sediment rinse water holding tank which is there to prevent any discharge into the city Stormwater drainage system;

there is no connection from it to the sewer. Nancy Nye is telling them to cement the holding tank because this would prevent the obtaining of a Stormwater Permit because rinse water would go into the street.

The violation for not allowing entry to an inspector is not true. He was allowed entry and given all the paperwork he had requested. He did not have identification from the Fire Department to do a fire code inspection which the inspector for the first annual inspection in May had done so he was not given access to the work area. Nancy had turned Arizona Traders in for fire code violations after the first inspection. They were canceled when they explained that they were retaliations by Nancy Nye.

We would also request that the entire action be dismissed because it is retaliation for a criminal investigation of Nancy Nye and Sonia Wyatt which Lorinda Gardner initiated last summer. Arizona Traders had provided her with information that Nancy Nye and Sonia Wyatt had forced him to help falsify the results of a 5 year inspection of their agency in 2012. They did this by sending Rick Pedregon to tell him that if he didn't do it they would close his business. This is not a legitimate function of the agency, it became the cause for a criminal investigation and then retaliation by Nancy Nye and Sonia Wyatt.

In 2012 they had 4 agencies from the TCEQ supervised by Jose Ojeda monitoring and testing the back work area and holding tank for 2 months before this. Jose informed him that there were no problems with the back work area and 2 weeks later Nancy Nye had gone to Arizona Traders with the 5 year inspector from the TCEQ and he verified that there were no problems with the back work area or the sediment/rinse water holding tank. Mr. Gilliland did not tell him about the violations by Nancy's inspectors as she had instructed him. Nancy Nye also verified everything and by the agreement that Rick Pedregon had made for her with him did nothing for the next 9 years. In 2012 Mr. Gilliland obtained a Stormwater Permit which also verified his use of the back work area and the sediment/rinse water holding tank. When Nancy Nye sent the Stormwater inspector she had him report Arizona Traders to OSHA for violations. They sent 3 inspectors for the first time and fined him \$65,000.00. Mr. Gilliland contacted the ombudsman at the Labor Department in Washington and explained that the retaliation was for Nancy's anger at the agencies. All fines were forgiven because of this.

In 2021 Nancy Nye had up to 3 trucks/day monitoring the back area for 7 months. Again they found no violations and after 6 months Nancy had an inspector take a sample from the sediment/rinse water holding tank and called it a violation, which it wasn't. Most of the violations she has listed are apparently from the rinse water sediment holding tank or are false.

At this point Arizona Traders began to renew their Stormwater Permit from 2012 which had not been renewed because he did not want Nancy to report them to OSHA again. Arizona Traders had received a Notice of Violation dated April 9, 2021 from Vicente Duran (Copy Attached) stating that he would not need a Permit if they had a different Industrial Code. He did not state that the back work area was in violation of any rules. It had not been in violation for more than 30 years. Mr. Gilliland contacted Sonia about this but she told him if he got the new industrial listing he could not have an outside work area and everything would have to be enclosed. He told her he had to have the outside work area and did not want the Industrial Code change. This was the first time Nancy and Sonia realized that he had to have the outside work area and not using it had never come up in the 30 years they had been monitored.

Sonia then told him that he had to close the outside area while they were in the process of getting a permit for it. Copies of emails are attached and marked in yellow showing that on June 4, 2021 he was told for the first time to close the outside area and the decision was only based on the fact that he stated on June 3, 2021 that they had to have it. The original emails are on file. At this point Arizona Traders initiated a criminal investigation of Nancy Nye and Sonia Wyatt with Lorinda Gardner, head of the TCEQ in El Paso.

The day before Mr. Gilliland initiated the criminal investigation he called Sonia Wyatt and asked her why she and Nancy were breaking the agreement Rick Pedregon had made with Mr. Gilliland. Sonia Wyatt said all the paperwork had been destroyed and they could do whatever they wanted now. It would seem that an agreement that lasted 9 years of this type between Nancy Nye and Sonia Wyatt and Arizona Traders would violate every rule and regulation that the TCEQ has. It is also requested that an investigation be done on how the violations by Rudy Pena and Manny were covered up that Mr. Gilliland had reported to Sonia. They had covered a period of more than 10 years. Retaliation by Nancy Nye began immediately after this.

The emails from June 1 to June 4 show that the only justification for closing the outside work area was the fact that Arizona Traders could not move it inside. Nothing before this had ever mentioned any rules against it. Being as turning off water and sewer service is based on non-existing and falsified violations involving the back work area and falsified violations taken from the sediment/holding tank everything should be restored and loss of income from production should be compensated for \$20,000.00. A criminal investigation of this is needed.

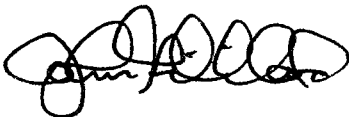
It seems to me that El Paso Water's actions are arbitrary and meant to harass, not to mention the proposed fine of \$92,000.00 which is confiscatory and exceeds all fines for all violations previously assessed which, by the way, were all forgiven.

We are also requesting another criminal investigation of Nancy Nye and Sonia Wyatt based on the emails from the 1st week of June of 2021. It is obviously not within their authority to again try to close a business based on arbitrary reasons and manufactured violations when they have had an agreement they honored for 9 years not to do it.

Nancy sent the TCEQ into Arizona Traders 2 weeks before she turned off the water. In the first telephone conversation with them, Maria Gomez told Mr. Gilliland that they wanted to see a rain gauge with measurements taken everyday and recorded and that if this was not done they would begin enforcement upon their arrival. This was apparently done on Nancy Nye's orders to retaliate against Arizona Traders. Arizona Traders requested a 30 day delay so they could hire a meteorologist to learn how to use the rain gauge. On the set day of inspection 2 weeks later they called Mr. Gilliland and said he could not have the extension and they were coming anyway. They arrived with 5 inspectors even though Arizona Traders had obtained a Stormwater Permit and asked them again not to come on the phone. They were denied entry and tried to enter the back of the building.

A week later Clayton Smith from the TCEQ legal department in Austin called to set a new date for the inspection. This was done and letters have been sent to Clayton detailing the retaliation by Nancy Nye and the TCEQ against Arizona Traders. Clayton was also informed of other actions by Nancy Nye and he recommended filing criminal charges with the police and sheriff's department against her. Copies of letters to Clayton Smith are attached including one which asked why Arizona Traders was not protected against retaliation.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Gilliland", with a stylized, cursive script.

John C. Gilliland
President of Arizona Traders Co.

From: noreply@puc.texas.gov

Sent: Friday, June 10, 2022 1:25 PM

To: ArizonaTradersCo@gmail.com

Subject: [Complaint No:CP2022060454] - Arizona Traders Co. Gilliland

Dear Utility Customer:

The Customer Protection Division (CPD) of the Public Utility Commission of Texas received your informal complaint and will begin an investigation of your concerns. In accordance with Commission Rules, we will provide the company notice of our investigation and require a response to the complaint within 15 days. At the conclusion of CPD's investigation, we will send you a letter describing our findings along with any recommendations for the company.

If you have any additional information or documentation that supports your complaint, you may contact us at (888) 782-8477 or by email to customer@puc.texas.gov as soon as possible so the information can be included in our investigation. Please also contact us if you have any questions or concerns about the investigation.

Thank you,

Customer Protection Division
Public Utility Commission of Texas

UCTX Online Complaint CP2022060454

Public Utility Commission of Texas
1701 N. Congress Ave.
P.O. Box 13326
Austin, TX 78711-3326
(888) 782-8477
www.puc.texas.gov

Water Complaint Form

Date: 6/10/2022 2:25:33 PM
Complaint Number: CP2022060454
Account Holder: Arizona Traders Co. Gilliland
Alternate Contact: John Gilliland
Email Address: ArizonaTradersCo@gmail.com

Service Address:
Business Name: 1104 E. San Antonio
Address 1: 1104 E. San Antonio
Address 2:
City: El Paso
State: TX
Zip: 79901
County: El Paso

Mailing Address:
Address 1:
Address 2:
City:
State: TX
Zip:

Day Phone: (915) 400-8636
Evening Phone: (915) 472-7965

Complaint Against: El Paso Water Utilities

Service Phone:

Account Number: 4140710000

Complaint Note: On May 19, 2022, El Paso Water dug up the sewer line and cut off water to the address of Arizona Traders. This discontinuance in service was without notice. The discontinuance is currently on administrative appeal within the utility, but that takes too much time, meanwhile the company and its employees are suffering (there is only evaporative cooling available).

Attachments:
CP2022060454.txt



April 22, 2022

**Sent via Certified Mail Return Receipt Requested
and Email to arizonatradersco@gmail.com**

Arizona Traders Company
Attn: Mr. John Gilliland
1104 E. San Antonio
El Paso, TX 79901

**Re: The availability of an opportunity to appeal termination of service to 1104 E.
San Antonio, El Paso, Texas**

Dear Mr. Gilliland:

As you are aware, service to 1104 E. San Antonio was discontinued by El Paso Water Utilities ("EPWater") on April 19, 2022. The termination of service was the result of ongoing issues related to non-compliance with requirements under the Industrial Pretreatment and the Municipal Separate Storm Sewer System Programs that have not been addressed. The possibility service to your property would be terminated, as a result of ongoing violations of the El Paso Water Utilities' Public Service Board Rules and Regulations and the El Paso Municipal code, was explained to you in a Notice of Violation letter dated March 9, 2022. This notice was delivered to you in person, as well as transmitted to you via email at 2:44 p.m. on the same day.

While you did provide EPWater with a response to the March 9, 2022 Notice of Violation, you did not perform any of the required pollution prevention actions requested in that Notice of Violation and the numerous other Notices of Violation issued to you by EPWater between April 2021 and the present. You have also continuously failed to provide EPWater with a plan to come into compliance, which would include refraining from performing activities in the outdoor area in the back of the building. In addition, discharge of pollutants, which EPWater has found to be in high concentrations, into the wastewater collection system have continued at your property dating back to 2011. The discharge of wastewater from regulated process is prohibited under the permit currently held by Arizona Traders Company.

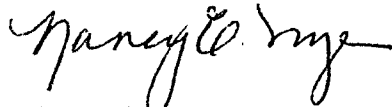
I write this letter to inform you that there is opportunity available for you to appeal the termination of service to your property through the appeal process outlined under EPWater Rules

4100 Delta Drive P.O. Box 511 El Paso, TX 79961-0511 P: 915.594.5729 F: 915.594.5740

and Regulations No. 8, a copy of which I have enclosed with this letter. For your convenience, I have highlighted the sections that may be helpful to guide you in the filing of an appeal, should you desire to do so. Please take particular note of the time limits and deadlines that you must meet with regard to the availability of the appeal process.

Please feel free to contact me via email at nenye@epwater.org, or via telephone at (915)594-5731 with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Nye", with a stylized flourish at the end.

Nancy Nye
Pretreatment Program Manager

Enclosure: EPWater Rules and Regulations No. 8

Arizona Traders Co.

1104 E. San Antonio Ave.
El Paso, TX 79901
P: 915-400-8636 F: 915-302-4360
arizonatradersco@gmail.com

April 15, 2022

Lorinda Gardner
Regional Director
TCEQ
915-834-4951
401 E. Franklin Ave. Suite 560
El Paso, TX 79901
lorinda.gardner@tceq.texas.gov

Notice of Violation from April 09, 2021 - Copy enclosed with no mention of closing the back work area. The option of switching to "Costume Jewelry" making was suggested which would not require a Permit.

COPY OF EMAIL TO SONIA: June 01, 2021 2:31 PM

Hello Sonia,

We are going to use the NAICS/SIC code 339911 for the Storm Water Permit. It is impossible to move the outside operation inside. We need a 30 day extension on the due date because we thought that when you put "costume jewelry" as an exemption on the violation, that you would let us do that. We have now lost a lot of time doing what you suggested on this.

If you could please verify that we are allowed to do this we would really appreciate it.

COPY OF EMAIL FROM SONIA: June 01, 2021 2:42 PM

Good afternoon,

Before I can respond to your request, please provide a detailed explanation as to why it is impossible to move the outside operation inside. Thank you.

COPY OF EMAIL FROM SONIA: June 02, 2021 12:04 PM - WE HAVE BEEN WORKING ON THE STORMWATER PERMIT FOR MORE THAN A MONTH.

Please understand that even if you did obtain an Industrial Multi-Sector General Permit (Stormwater), you still would not be permitted to have any operations performed outside unless the City/El Paso Water knows that there are sufficient measures in place to prevent illicit discharges of process wastewater from impacting the MS4 (the stormwater system). In order to make that determination, you must submit a Storm Water Pollution Prevention Plan (SWP4) to the City, which El Paso Water will review in accordance with City Code (I provide a link to the relevant section of the Code below).

Arizona Traders Co.

1104 E. San Antonio Ave.
El Paso, TX 79901
P: 915-400-8636 F: 915-302-4360
arizonatradersco@gmail.com

COPY OF EMAIL TO SONIA: June 03, 2021 9:36 AM

Good morning Sonia,

We are going to proceed to get the General Permit under the old code. We need a 30 day extension to be able to complete all of this.

We use the outside area for Turquoise crushing which creates a lot of dust which cannot be done inside of the building and steam from the boiler which dewaxes jewelry flask and which cannot be done inside of the building.

COPY OF EMAIL FROM SONIA: JUNE 03, 2021 10:14 AM

Good Morning,

Why are you choosing to go with this plan? Is jewelry manufacturing the majority of your business rather than wholesale of as you previously stated?

COPY OF EMAIL FROM SONIA: JUNE 04, 2021 - 2:20 PM FIRST TIME SONIA TOLD US TO STOP USING THE OUTSIDE WORK AREA

Good afternoon Mr. Gilliland,

This email is being sent as a reminder that you may not perform any industrial activities outside for any reason.

Also, please provide information regarding any steps you have already taken to obtain a Permit and/or develop your Stormwater Pollution Prevention Plan. This information must be provided to me no later than Monday June 7th, 2021.

COPY OF EMAIL TO SONIA: JUNE 04, 2021 - 2:53 PM

Hello Sonia,

Attached is a email we sent yesterday regarding why we cannot move our operations indoors.

We need a 30 day extension because of the delay in trying to get the other Permit. We are proceeding with the Permit which we had originally agreed to get for which we have completed steps 6, 7, 8 and 9 with Vincente.

COPY OF EMAIL TO SONIA: JUNE 04, 2021 - 2:56 PM

We are in contact with Alex from the Program Support and Environmental Assistance Division and is helping us with the Permit. We were made aware that we will not be able to proceed in finishing the Permit because we have to complete a SWP3 first. We have a reference number for the permit which is #418733.

We will be emailing you with updates as soon as we make them.

Violations from Nancy Nye

You can view "NOV 07282009.pdf" at: **NOV July 28, 2009**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:0d6ed0e5-10a9-4814-89b9-22199ebdfe12>

You can view "NOV 07282020.pdf" at: **NOV July 28, 2020**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:ea50bc02-83d8-4eeb-8250-8947da53ba82>

You can view "NOV 08202012.pdf" at: **NOV August 20, 2012**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:b2bc4073-8942-449e-8403-24a761b9ead0>

You can view "NOV 08202020.pdf" at: **NOV August 20, 2020**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:77e132a3-e7bf-407f-be27-a23a803d3119>

You can view "NOV Revised 08282012.pdf" at: **NOV August 28, 2012**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:62d180a8-2144-4738-b4fd-5e32c793c056>

You can view "NOV 01072022 - Exceedances.pdf" at: **NOV January 07, 2022**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:fbf28318-3815-487b-a804-5e393db9ba19>

You can view "NOV 01072022-Access Denied.pdf" at: **NOV January 07, 2022**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:036c6d75-e724-4680-8512-59dc8f11cdb9>

You can view "NOV 01072022-RE Sand Trap.pdf" at: **NOV January 07, 2022**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:30fa8fe2-64f3-48f2-a9b6-957c23696a97>

You can view "NOV 01282022.pdf" at: **January 28, 2022**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:c1f983ba-1d8f-4127-8593-6e0adb22fe84>

You can view "NOV 03102011.pdf" at: **March 10, 2011**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:137757d3-51a1-4946-aa20-e3e5edab6e7a>

You can view "NOV 04112012.pdf" at: **April 11, 2012**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:fad429a9-0185-4b91-b513-d44fdcb49f4f>

You can view "NOV 04142022.pdf" at: **April 14, 2022**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:188fdaa8-a359-47a3-94c0-34e5c9d5221d>

You can view "NOV 04262012.pdf" at: **April 26, 2012**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:231c5f41-7876-4308-a03e-83fe1e37363d>

You can view "NOV 06092020.pdf" at: **June 09, 2020**

<https://acrobat.adobe.com/link/track?uri=urn:aaid:scds:US:56116826-7135-4bea-875b-cadb1c085441>