
CITY OF PORT LAVACA

CC MEETING:

AGENDA ITEM #

DATE:

TO: JODY WEAVER, INTERIM CITY MANAGER
cc: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

FROM: WAYNE SHAFFER, PUBLIC WORKS DIRECTOR 

SUBJECT: Presentation of TTHM removal systems

BACKGROUND: The City of Port Lavaca is under enforcement, 2023-1545-PWS-E, FOR EXCEEDANCES OF TTHM (total trihalomethanes). Attached are the test results from a pilot study to gauge the effectiveness of THM removal in our system. Based on the lab results shown, we can see up to 88% THM removal using the proposed system.

FINANCIAL IMPLICATIONS: If the system is accepted, the funds would need to come from reserves.

IMPACT ON COMMUNITY SUSTAINABILITY: The influence on community sustainability regarding cost centers on the ongoing maintenance of new equipment and electricity consumption. Reducing THM levels results in less flushing in the system, thereby decreasing expenses. Lastly, enhanced water quality will facilitate our progression toward recognition as a superior water system.

RECOMMENDATION: If it is decided to go this route, staff would recommend VaCraft Manufacturing for the following reasons:

1. Pilot study proves their system works
2. Quote is for a single machine at George St. as apposed to systems at both ESTs

ATTACHMENTS: TCEQ agreed Order, Lab results of the pilot test, quote from VaCraft Manufacturing, Quotes from PSI water

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PORT LAVACA
RN103098992

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2023-1545-PWSE

On JUL 17 2024, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Port Lavaca (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 800 North Commerce Street in Port Lavaca, Calhoun County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 6,130 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(73).
2. During a record review for the Facility conducted on October 9, 2023 through October 20, 2023, an investigator documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts at Site 1 were 0.087 milligrams per liter ("mg/L") during the first quarter of 2023, 0.092 mg/L during the second quarter of 2023, and 0.093 mg/L during the third quarter of 2023, at Site 2 were 0.090 mg/L during the first quarter of 2023, 0.096 mg/L during the second quarter of 2023, and 0.096 mg/L during the third quarter of 2023, at Site 3 were 0.093 mg/L during the first quarter of 2023, 0.097 mg/L during the second quarter of 2023, and 0.094 mg/L during the third quarter of 2023, and at Site 4 were 0.081 mg/L during the second quarter of 2023 and 0.087 mg/L during the third quarter of 2023.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$13,500 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The amount of \$13,500 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Order, the Executive Director may demand payment of all or part of the conditionally deferred penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Port Lavaca, Docket No. 2023-1545-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 180 days after the effective date of this Order, submit an acceptable written plan, including a proposed schedule and any applicable planning materials, to the Executive Director that provides for an alternate water source, treatment technology, or other means of completing the necessary corrective actions to achieve compliance within 1,095 days after the effective date of this

order with the MCL for TTHM to the addresses listed in Ordering Provision No. 2.e below.

- b. Within 195 days after the effective date of this Order, submit written certification as described in Ordering Provision No. 2.e below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 365 days after the effective date of this Order and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.e below. These reports shall include information regarding actions taken to provide water which meets the MCL for TTHM.
- d. Within 1,095 days after the effective date of this Order, return to compliance with the MCL for TTHM based on a locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
- e. Within 1,110 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

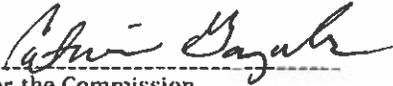
Water Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
500 North Shoreline Boulevard, Suite 500
Corpus Christi, Texas 78401

- 3. All relief not expressly granted in this Order is denied.

4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



For the Commission

7/23/2024

Date



For the Executive Director

5/28/2024

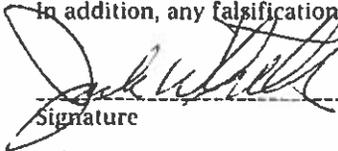
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

5-22-24

Date

Jack Whitlow

Name (Printed or typed)
Authorized Representative of
City of Port Lavaca

MAYOR

Title

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

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

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 25, 2024

FIRST CLASS MAIL

The Honorable Jack Whitlow, Mayor
City of Port Lavaca
202 North Virginia Street
Port Lavaca, Texas 77979

RE: City of Port Lavaca
TCEQ Docket No. 2023-1545-PWS-E; Registration No. 0290002
Agreed Order Assessing Administrative Penalties and Requiring Certain Actions

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 Amy Davis of the Office of the Chief Clerk at (512) 239-3300.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/ad

Enclosure

cc: Mason Demasi, Enforcement Coordinator, TCEQ Enforcement Division