

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Kelly Keel, *Interim Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

August 11, 2023

Via First Class Mail, Postage Prepaid

Art Rodriguez  
Messer, Ford & McDonald  
4201 W. Parmer Lane, Suite C-150  
Austin, Texas 78727

David Naylor, President  
RCH WATER SUPPLY CORPORATION  
P.O. Box 2034  
Rockwall, Texas 75087-4434

Re: TCEQ Enforcement Action  
RCH WATER SUPPLY CORPORATION  
Docket No. 2021-0601-PWS-E

Dear Mr. Rodriguez:

Enclosed for your records is a fully executed copy of the Agreed Order for the above-referenced matter. 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 "Megan L. Grace".

Megan L. Grace, Staff Attorney  
Litigation Division  
[Megan.Grace@tceq.texas.gov](mailto:Megan.Grace@tceq.texas.gov)

Enclosures

cc: Daphne Greene, Enforcement Division  
Brent Candler, Dallas/Fort Worth Regional Office\*\*  
Sheldon Wayne, Public Interest Counsel  
Katherine McKenzie, Litigation Division

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT  
ACTION CONCERNING  
RCH WATER SUPPLY CORPORATION;  
RN102689635

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2021-0601-PWS-E

### I. JURISDICTION AND STIPULATIONS

On August 8, 2023, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding RCH WATER SUPPLY CORPORATION ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Art Rodriguez of the law firm Messer, Fort & McDonald, together stipulate that:

1. Respondent owns and operates a public water system ("PWS") located approximately 0.25 miles south of State Highway 205 on Lofland Circle in Rockwall, Rockwall County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 2,289 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a PWS as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE § 7.002 and TEX. HEALTH & SAFETY CODE § 341.049, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegation"), nor of any statute or rule.
4. An administrative penalty in the amount of three thousand one hundred fifty dollars (\$3,150.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three thousand one hundred fifty dollars (\$3,150.00) of the penalty.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. 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.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.

## II. ALLEGATION

During an investigation conducted on March 12, 2021, an investigator documented that Respondent failed to ensure additional protection was provided at all residences or establishments where an actual or potential contamination hazard exists in the form of an air gap or backflow prevention assembly ("BPA"), as identified in 30 TEX. ADMIN. CODE § 290.47(f), in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A). Specifically, Respondent did not ensure that additional protection was provided at connections served by on-site sewage facilities where irrigation systems were installed.

## III. DENIALS

Respondent generally denies the Allegation in Section II.

## IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the Allegation in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here.
2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, ensure that a proper BPA or air gap is provided at all locations where an actual or potential contamination hazard exists, including but not limited to a reduced pressure principle BPA at connections served by on-site sewage facilities where irrigation systems were installed, in accordance with 30 TEX. ADMIN. CODE § 290.44.
  - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 fine and imprisonment for knowing violations."

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon 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.
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. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. This 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 Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. 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, 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.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
For the Executive Director

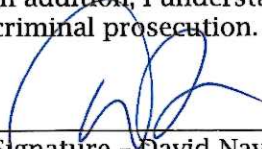
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Date

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 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 - David Naylor, President  
RCH WATER SUPPLY CORPORATION  
P.O. Box 2034  
Rockwall, Texas 75087-4434

5-3-2023  
\_\_\_\_\_  
Date

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

\_\_\_\_\_