

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1946-PWS-E **TCEQ ID:** RN101455848 **CASE NO.:** 38789

**RESPONDENT NAME:** Patton Lake, Inc.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Patton Lake Club, 25816 Roping Pen Road, Splendora, Montgomery County</p> <p><b>TYPE OF OPERATION:</b> Public water supply</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 17, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p><b>TCEQ Attorney/SEP Coordinator:</b> None</p> <p><b>TCEQ Enforcement Coordinator:</b> Ms. Amanda Henry, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3672; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495</p> <p><b>Respondent:</b> Ms. Jolly Fowler, Registered Agent, Patton Lake, Inc., 25682 Roping Pen Road, Splendora, Texas 77372 Ms. Rita Baucom, Treasurer, Patton Lake, Inc., 25682 Roping Pen Road, Splendora, Texas 77372</p> <p><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 6 and October 6, 2009</p> <p><b>Date of NOE Relating to this Case:</b> November 19, 2009</p> <p><b>Background Facts:</b> These were routine investigations.</p> <p><b>WATER</b></p> <p>1) Failure to locate the Facility's well at least 150 feet from a septic tank perforated drainfield [30 TEX. ADMIN. CODE § 290.41(c)(1)(A)].</p> <p>2) Failure to secure a sanitary control easement covering all property within 150 feet of the Facility's water well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].</p> <p>3) Failure to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities [30 TEX. ADMIN. CODE § 290.39(j)(1)(A)].</p> <p>4) Failure to provide a well capacity of 1.5 gallons per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 90.45(b)(1)(A)(i) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>5) Failure to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days [30 TEX. ADMIN. CODE § 290.110(c)(4)(A)].</p>	<p><b>Total Assessed:</b> \$1,497</p> <p><b>Total Deferred:</b> \$299  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$198 (remaining \$1,000 due in 10 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent began monitoring the disinfectant residual at representative locations in the distribution system as of August 24, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit notification to the Executive Director of the modifications made to the pressure maintenance facilities.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described below in Ordering Provision f, that demonstrates compliance with Ordering Provision a.</p> <p>c. Within 90 days after the effective date of this Agreed Order, obtain a sanitary control easement or obtain an exception to the requirement.</p> <p>d. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision f below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision c.</p> <p>e. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Relocate the septic system drainfield to a site that is a minimum of 150 feet from the Facility's well or obtain an exception to the requirement; and</p> <p>ii. Provide a well production capacity of 1.5 gpm per connection.</p> <p>f. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records</p>

		to demonstrate compliance with Ordering Provision e.
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Additional ID No(s): PWS ID No. 1700488





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	23-Nov-2009	Screening	1-Dec-2009	EPA Due	
	PCW	1-Dec-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Patton Lake, Inc.		
Reg. Ent. Ref. No.	RN101455848		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38789	No. of Violations	5
Docket No.	2009-1946-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Yuliya Dunaway
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$4,015	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$41,350	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 1-Dec-2009

Docket No. 2009-1946-PWS-E

PCW

Respondent Patton Lake, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38789

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455848

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 5%

>> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes

The penalty enhancement is due to one prior NOV for violations that are the same as or similar to the violations in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

Screening Date 1-Dec-2009

Docket No. 2009-1946-PWS-E

PCW

Respondent Patton Lake, Inc.

Policy Revision 2 (September, 2002)

Case ID No. 38789

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455848

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(A)

Violation Description

Failed to locate the Facility's well at least 150 feet from a septic tank perforated drainfield. Specifically, during the August 6, 2009 investigation, a review of the Facility files revealed that raw water samples were being taken from the well; however, there was no record of an exception for the well being within 150 feet of a septic tank. On October 6, 2009, the investigator returned onsite and measured the distance of the well to the septic drainfield located at 25816 Roping Pen Road using a Keson Road Runner distance measuring wheel and documented a distance of 110 feet between the well and septic tank drainfield.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to locate the well at least 150 feet of a septic tank could result in the contamination of the water supply and/or exposure of customers to a significant amount of pollutants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4

117 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

Four monthly events are recommended from the date of the investigation, August 6, 2009, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,968

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

# Economic Benefit Worksheet

**Respondent** Patton Lake, Inc.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**Media:** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$20,000	6-Aug-2009	1-Jan-2011	1.41	\$94	\$1,874	\$1,968
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to ensure that the well is located at least 150 feet away from a septic tank system, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$1,968

Screening Date 1-Dec-2009

Docket No. 2009-1946-PWS-E

PCW

Respondent Palton Lake, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38789

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455846

Media [Statute] Public Water Supply

Enf. Coordinator Yulya Dunaway

Violation Number

2

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to secure a sanitary control easement covering all property within 150 feet of the Facility's water well.

Base Penalty

\$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent

5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

0%

Matrix Notes

Failure to secure a sanitary control easement could expose customers of the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment

\$950

\$50

Violation Events

Number of Violation Events

1

117

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty

\$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Extraordinary

Before NOV

NOV to EDPRP/Settlement Offer

Ordinary

N/A

X

(mark with x)

Notes

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

Violation Subtotal

\$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$17

Violation Final Penalty Total

\$53

This violation Final Assessed Penalty (adjusted for limits)

\$53

# Economic Benefit Worksheet

**Respondent** Patton Lake, Inc.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**Media** Public Water Supply  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$300	6-Aug-2009	1-Oct-2010	1.15	\$17	n/a	\$17
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the estimated amount to secure a sanitary control easement and file the easement in the deed records, calculated from the date of the investigation to the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: \$300
TOTAL: \$17

Screening Date 1-Dec-2009

Docket No. 2009-1946-PWS-E

PCW

Respondent Patton Lake, Inc.

Policy Revision 2 (September 2009)

Case ID No. 38789

PCW Revision October 30, 2013

Reg. Ent. Reference No. RN101455848

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.39(j)(1)(A)

Violation Description

Failed to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities. Specifically, at the time of the investigation, it was documented that the Respondent made a significant change to the Facility's pressure maintenance capacity by installing an additional 525 gallon pressure tank without notifying the Executive Director prior to installing the tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

## Economic Benefit Worksheet

**Respondent** Patton Lake, Inc.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**Media** Public Water Supply  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Item Description: No commas or \$

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	6-Aug-2009	1-Jul-2010	0.90	\$3	\$60	\$63
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to prepare and submit proper notification to the agency for the modifications made to the Facility, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$63

Screening Date 1-Dec-2009

Docket No. 2009-1946-PWS-E

PCW

Respondent Palton Lake, Inc.

Policy Revision 2 (September 2002)

Case ID No. 38789

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101455848

Media [Statute] Public Water Supply

Enf. Coordinator Yuliya Dunaway

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.45(b)(1)(A)(i) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection. Specifically, at the time of the investigation, it was documented that the Facility is required to provide a well capacity of 40.5 gpm based on its 27 connections. However, the Facility's well capacity was 35 gpm, which is a 14% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

By failing to provide adequate well capacity, the Facility may experience back-siphonage and low pressure problems thereby exposing customers to a significant amount of contaminants that would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2

56 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$200

Two quarterly events are recommended from the date of the investigation, August 6, 2009, to the date of screening, December 1, 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRPISettlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,968

Violation Final Penalty Total \$210

This violation Final Assessed Penalty (adjusted for limits) \$210

# Economic Benefit Worksheet

**Respondent** Patton Lake, Inc.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**Media:** Public Water Supply  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$20,000	6-Aug-2009	1-Jan-2011	1.41	\$94	\$1,874	\$1,968
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to provide a well capacity of 1.5 gpm per connection, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

**TOTAL**

\$1,968

Screening Date: 1-Dec-2009

Docket No: 2009-1946-PWS-E

PCW

Respondent: Patton Lake, Inc.

Policy Revision 2 (September 2002)

Case ID No: 38789

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101455848

Media [Statute]: Public Water Supply

Enf. Coordinator: Yuliya Dunaway

Violation Number: 5

Rule Cite(s):

30 Tex. Admin. Code § 290.110(c)(4)(A)

Violation Description:

Failed to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days. Specifically, during the investigation on August 6, 2009, there was not a chlorine log available for review and the operator stated that the chlorine residual tests were being conducted at the well site rather than at various locations within the distribution system.

Base Penalty: \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent: 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent: 0%

Matrix Notes:

Failed to properly monitor the disinfectant residual at representative locations within the distribution system may result in non-detection of low disinfection levels exposing customers to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment: \$900

\$100

Violation Events

Number of Violation Events: 1

Number of violation days: 18

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$100

One quarterly event is recommended, calculated from the date of the investigation, August 6, 2009, to the date of compliance, August 24, 2009.

Good Faith Efforts to Comply

25.0% Reduction

\$25

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes:

The Respondent achieved compliance on August 24, 2009.

Violation Subtotal: \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$0

Violation Final Penalty Total: \$80

This violation Final Assessed Penalty (adjusted for limits): \$80

## Economic Benefit Worksheet

**Respondent:** Patton Lake, Inc.  
**Case ID No.:** 38789  
**Reg. Ent. Reference No.:** RN101455848  
**Media:** Public Water Supply  
**Violation No.:** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$50	6-Aug-2009	24-Aug-2009	0.05	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to modify the disinfectant monitoring to include representative locations throughout the distribution system, calculated from the date of the investigation to the date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600657449    Patton Lake, Inc	Classification:	Rating:
Regulated Entity:	RN101455848    PATTON LAKE CLUB	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1700488
Location:	25816 ROPING PEN RD, SPLENDORA, MONTGOMERY COUNTY, TX		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	November 24, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 24, 2004 to November 24, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Yuliya Dunaway	Phone:	210-403-4077

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period?       | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No  |
| 3. If Yes, who is the current owner/operator?  | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ?   | N/A |
| 5. When did the change(s) in owner or operator occur?  | N/A |
| 6.   |     |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- N/A
- B. Any criminal convictions of the state of Texas and the federal government.
- N/A
- C. Chronic excessive emissions events.
- N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 08/30/2006 | (508928) |
| 2 | 11/19/2009 | (764870) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |          |                          |
|--------------|---|----------|--------------------------|
| Date:        | 08/30/2006  | (508928) | CN600657449              |
| Self Report? | NO  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter F 290.110(e)(4)  |          |                          |
| Description: | Failure to provide DLQORs at the time of the investigation.   |          |                          |
| Self Report? | NO  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)  |          |                          |
| Description: | Failure to locate ground water sources so there will be no danger of pollution from insanitary surroundings. Specifically, the well must not be located within 150 feet of a septic system drainfield.  |          |                          |
| Self Report? | NO  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  |          |                          |
| Description: | Failure to make available sanitary control easements for the system's well at the time of inspection, or executive director approval for a substitute authorized in 30 TAC Chapter 290.41(c)(1)(F)(iv). |          |                          |
| Self Report? | NO  |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.42(l)  |          |                          |
| Description: | Failure to provide a plant operations manual at the time of the investigation.  |          |                          |
| Self Report? | NO  |          | Classification: Moderate |

Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
Description: Failure to provide at the time of the investigation a distribution map.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)  
Description: Failure to provide records of the volume of water treated and pumped each week.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121  
Description: Failure by the regulated entity to develop and maintain an up to date system monitoring plan.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PATTON LAKE, INC.  
RN101455848

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1946-PWS-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Patton Lake, Inc. ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 25816 Roping Pen Road in Splendora, Montgomery County, Texas (the "Facility") that has approximately 27 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 24, 2009.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the 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 Four Hundred Ninety-Seven Dollars (\$1,497) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Ninety-Eight Dollars (\$198) of the administrative penalty and Two Hundred Ninety-Nine Dollars (\$299) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed

Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Dollars (\$1,000) of the administrative penalty shall be payable in 10 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent began monitoring the disinfectant residual at representative locations in the distribution system as of August 24, 2009.
9. 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 or conditions in this Agreed Order.
10. 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.
11. 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

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to locate the Facility's well at least 150 feet from a septic tank perforated drainfield, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(A), as documented during investigations conducted on August 6 and October 6, 2009.
2. Failed to secure a sanitary control easement covering all property within 150 feet of the Facility's water well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F), as documented during an investigation conducted on August 6, 2009.

3. Failed to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.39(j)(1)(A), as documented during an investigation conducted on August 6, 2009.
4. Failed to provide a well capacity of 1.5 gallons per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on August 6, 2009.
5. 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), as documented during an investigation conducted on August 6, 2009.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the 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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Patton Lake, Inc., Docket No. 2009-1946-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit notification to the Executive Director of the modifications made to the pressure maintenance facilities, as required by 30 TEX. ADMIN. CODE § 290.39.

The notification shall be submitted to:

Utilities Technical Review Team  
Water Supply Division, MC 153  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described below in Ordering Provision No. 2.f, that demonstrates compliance with Ordering Provision No. 2.a.
- c. Within 90 days after the effective date of this Agreed Order, obtain a sanitary control easement, in accordance with 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39.
- d. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 180 days after the effective date of this Agreed Order:
  - i. Relocate the septic system drainfield to a site that is a minimum of 150 feet from the Facility's well, as required by 30 TEX. ADMIN. CODE § 290.41 or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39; and
  - ii. Provide a well production capacity of 1.5 gpm per connection, as required by 30 TEX. ADMIN. CODE § 290.45.
- f. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e. The certification shall be notarized by a State of Texas Notary Public and 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:

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

with a copy to:

Water Section, Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. 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 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.
5. This Agreed 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 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.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John Szallie*  
For the Executive Director

5/10/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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 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, any falsification of any compliance documents may result in criminal prosecution.

*Rita Baucom*  
Signature

3-12-10  
Date

Rita Baucom  
Name (Printed or typed)  
Authorized Representative of  
Patton Lake, Inc.

Treasurer  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.