

**Executive Summary – Enforcement Matter – Case No. 44459**  
**USM Manufacturing L.L.C. dba Praters Foods**  
**RN101254803**  
**Docket No. 2012-1319-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM - PWS, WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Praters Foods, located approximately 0.25 mile east of the intersection of 114th Street and University Avenue south-southeast of Lubbock, Lubbock County and Public Water Supply (“PWS”) located at 2206 114<sup>th</sup> Street in Lubbock, Lubbock County

**Type of Operation:**

Frozen food processing facility with an associated wastewater treatment plant (“WWTP”) and public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 23, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$24,673

**Amount Deferred for Expedited Settlement:** \$4,934

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$19,739

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 44459**  
**USM Manufacturing L.L.C. dba Praters Foods**  
**RN101254803**  
**Docket No. 2012-1319-MLM-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 24, 2012

**Date(s) of NOE(s):** June 29, 2012

***Violation Information***

1. Failed to operate the PWS Facility under the direct supervision of properly licensed individual holding the appropriate level of license to operate the PWS Facility. Specifically, the monthly bacteriological samples from December 2010 to April 2012 were being collected by an unlicensed individual [30 TEX. ADMIN. CODE § 290.46(e) and TEX. HEALTH & SAFETY CODE § 341.033(a)].
2. Failed to ensure that abandoned wells that are not in use and are non-deteriorated are either tested every five years or plugged. Specifically, an unidentified well, located on the north side of the PWS Facility, had not been in use since about 2005 and had not been tested or plugged [30 TEX. ADMIN. CODE § 290.46(u)].
3. Failed to obtain authorization prior to treating and discharging wastewater from the Facility's processing operation. Specifically, Respondent began treating and discharging wastewater from the WWTP Facility without transferring Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004440000 as of August 3, 2009 [TEX. WATER CODE § 26.121].
4. Failed to obtain authorization to discharge storm water associated with industrial activities at the WWTP Facility under the TPDES Multi-Sector General Permit [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures:

- a. By July 6, 2012, submitted an application requesting the transfer of TPDES Permit No. WQ0004440000 into Respondent's name as owner and operator;
- b. By July 16, 2012, obtain coverage under TPDES Multi-Sector General Permit TXRNEY992 to discharge storm water;
- c. By July 18, 2012, hired a licensed operator to perform all operations at the PWS Facility;

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**USM Manufacturing L.L.C. dba Praters Foods**  
**RN101254803**  
**Docket No. 2012-1319-MLM-E**

- d. By July 19, 2012, tested the abandoned wells at the PWS Facility; and
- e. By August 9, 2012, transferred TPDES Permit No. WQ0004440000 to reflect the new ownership.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division,  
Enforcement Team 3, MC R-04, (817) 588-5890; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** R. Gantt Bumstead, Co-President, USM Manufacturing L.L.C., 7830  
Orlando Avenue, Lubbock, Texas 79423  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	2-Jul-2012	<b>Screening</b>	2-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	5-Jul-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	USM Manufacturing L.L.C. dba Praters Foods
<b>Reg. Ent. Ref. No.</b>	RN101254803
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44459	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1319-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$600
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	4.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$24
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Notes: Enhancement for two NOV with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$60
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$208
Approx. Cost of Compliance	\$186

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$564
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	36.9%	<b>Adjustment</b>	\$208
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with the violation.

<b>Final Penalty Amount</b>	\$772
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$772
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$154
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$618
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Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 2 (September 2002)

Case ID No. 44459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254803

Media [Statute] Public Water Supply

Enf. Coordinator Jorge Ibarra, P.E.

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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) 4%

#### >> 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

Enhancement for two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 2 (September 2002)

Case ID No. 44459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254803

Media [Statute] Public Water Supply

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e) and Tex. Health & Safety Code § 341.033(a)

Violation Description Failed to operate the public water supply ("PWS") Facility under the direct supervision of properly licensed individual holding the appropriate level of license to operate the PWS Facility. Specifically, the monthly bacteriological samples from December 2010 to April 2012 were being collected by an unlicensed individual.

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

Failure to employ or contract a properly licensed individual to operate the Facility could result in poor operation of the Facility, which in turn could result in the exposure of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 6

516 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$600

Six quarterly events are recommended for the period December 1, 2010 through April 30, 2012.

Good Faith Efforts to Comply

10.0% Reduction

\$60

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

Notes The Respondent achieved compliance by July 18, 2012.

Violation Subtotal \$540

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$208

Violation Final Penalty Total \$772

This violation Final Assessed Penalty (adjusted for limits) \$772

## Economic Benefit Worksheet

**Respondent** USM Manufacturing L.L.C. dba Praters Foods  
**Case ID No.** 44459  
**Reg. Ent. Reference No.** RN101254803  
**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
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				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

### 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
<b>ONE-TIME avoided costs [3]</b>	<b>\$186</b>	<b>1-Dec-2010</b>	<b>30-Apr-2012</b>	<b>2.33</b>	<b>\$22</b>	<b>\$186</b>	<b>\$208</b>
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain a PWS operator license. Date required is the date the violation began and the final date is the date the violation ended.

Approx. Cost of Compliance

\$186

**TOTAL**

\$208



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Jul-2012	Screening	2-Jul-2012	EPA Due	
	PCW	5-Jul-2012				

## RESPONDENT/FACILITY INFORMATION

Respondent	USM Manufacturing L.L.C. dba Praters Foods		
Reg. Ent. Ref. No.	RN101254803		
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	44459	No. of Violations	2
Docket No.	2012-1319-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Public Water Supply	Enf. Coordinator	Jorge Ibarra, P.E.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## 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   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**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 indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 2 (September 2002)

Case ID No. 44459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254803

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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) 4%

#### >> 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

Enhancement for two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 2 (September 2002)

Case ID No. 44459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254803

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121

Violation Description Failed to obtain authorization prior to treating and discharging wastewater from the Facility's processing operation. Specifically, the Respondent began treating and discharging wastewater from the Wastewater Treatment Plant ("WWTP") Facility without transferring Texas Pollutant Discharge Elimination System Permit No. ("TPDES") WQ0004440000 as of August 3, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%). Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 12 Number of violation days 1064

Table for event frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$12,000

Twelve quarterly events are recommended from the August 3, 2009 change of ownership date to the July 2, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$12,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$38

Violation Final Penalty Total \$12,480

This violation Final Assessed Penalty (adjusted for limits) \$12,480

# Economic Benefit Worksheet

**Respondent** USM Manufacturing L.L.C. dba Praters Foods  
**Case ID No.** 44459  
**Reg. Ent. Reference No.** RN101254803  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** 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			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$250	3-Aug-2009	9-Aug-2012	3.02	\$38	n/a
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for the completion of forms and payment of fees associated with a request to transfer a permit. Date required is the date ownership changed and the final date is the compliance date.

**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 \$250

**TOTAL** \$38

Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 2 (September 2002)

Case ID No. 44459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101254803

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge storm water associated with industrial activities at the WWTP Facility under the TPDES Multi-Sector General Permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 12 Number of violation days 1064

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$12,000

Twelve quarterly events are recommended from the August 3, 2009 change of ownership date to the July 2, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$1,200

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

Notes The Respondent achieved compliance by July 16, 2012.

Violation Subtotal \$10,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$222

Violation Final Penalty Total \$11,280

This violation Final Assessed Penalty (adjusted for limits) \$11,280

## Economic Benefit Worksheet

**Respondent** USM Manufacturing L.L.C. dba Praters Foods  
**Case ID No.** 44459  
**Reg. Ent. Reference No.** RN101254803  
**Media** Water Quality  
**Violation No.** 2

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				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,500	3-Aug-2009	16-Jul-2012	2.95	\$222	n/a	\$222
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a Storm Water Pollution Prevention Plan and obtain authorization to discharge storm water associated with industrial activities. Date required is the date the permit ownership changed and the final date is the compliance date.

### 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

\$1,500

**TOTAL**

\$222



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	2-Jul-2012	<b>Screening</b>	2-Jul-2012	<b>EPA Due</b>	
	<b>PCW</b>	5-Jul-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	USM Manufacturing L.L.C. dba Praters Foods
<b>Reg. Ent. Ref. No.</b>	RN101254803
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44459	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1319-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Water Quality	<b>Enf. Coordinator</b>	Jorge Ibarra, P.F.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$150
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	

<b>Compliance History</b>	4.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$6
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Notes: Enhancement for two NOVs with dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$15
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$16  
 Approx. Cost of Compliance: \$1,500  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$141
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$141
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$141
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$28
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$113
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Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 3 (September 2011)

Case ID No. 44459

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101254803

Media [Statute] Public Water Supply

Enf. Coordinator Jorge Ibarra, P.E.

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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) 4%

>> 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

Enhancement for two NOVs with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 4%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 4%

Screening Date 2-Jul-2012

Docket No. 2012-1319-MLM-E

PCW

Respondent USM Manufacturing L.L.C. dba Praters Foods

Policy Revision 3 (September 2011)

Case ID No. 44459

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101254803

Media [Statute] Public Water Supply

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(u)

Violation Description Failed to ensure that abandoned wells that are not in use and are non-deteriorated are either tested every five years or plugged. Specifically, an unidentified well, located on the north side of the PWS Facility, had not been in use since about 2005 and had not been tested or plugged.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Failure to ensure that abandoned wells that are not in use and are non-deteriorated are either tested every five years or plugged could result in the exposure of pollutants which would exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1 Number of violation days 39

Table for frequency selection: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$150

One quarterly event is recommended from the May 24, 2012 investigation date to the July 2, 2012 screening date.

Good Faith Efforts to Comply

10.0% Reduction \$15

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent achieved compliance by July 19, 2012.

Violation Subtotal \$135

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$141

This violation Final Assessed Penalty (adjusted for limits) \$141

# Economic Benefit Worksheet

**Respondent** USM Manufacturing L.L.C. dba Praters Foods  
**Case ID No.** 44459  
**Reg. Ent. Reference No.** RN101254803  
**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
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	\$1,500	24-May-2012	19-Jul-2012	0.15	\$1	\$15	\$16
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** Estimated cost to test the well every five years to show it is in a non-deteriorated condition. Date required is the investigation date and the final date is the compliance date.

### 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**

<b>Approx. Cost of Compliance</b>	\$1,500	<b>TOTAL</b>	\$16
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN604061739 USM Manufacturing LLC Classification: Rating:  
Regulated Entity: RN101254803 PRATERS FOODS Classification: Site Rating:  
ID Number(s): WASTEWATER PERMIT WQ0004440000  
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1520236  
Location: 2206 114th Street, Lubbock Texas (PSW Facility) and approximately 0.25 mile east of the intersection of 114th Street and University Avenue south-southeast of Lubbock, Lubbock County, Texas (WWTP Facility).  
TCEQ Region: REGION 02 - LUBBOCK  
Date Compliance History Prepared: July 02, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 02, 2007 to July 02, 2012

## TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

### 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? YES
3. If YES, who is the current owner/operator? USM Manufacturing LLC, OWNER since 8/3/2009
4. If YES, who was/were the prior owner(s)/operator(s)? Praters Foods, Inc., OWNER OPERATOR since 01/01/1800
5. If YES, when did the change(s) in owner or operator occur? 8/3/2009
6. Rating Date: N/A Repeat Violator: N/A

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, 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	06/28/2012	(1014641)
2	07/18/2007	(568207)
3	10/04/2007	(596847)
4	12/12/2007	(610814)
5	02/25/2009	(736628)
6	01/20/2010	(788095)
7	10/16/2008	(704655)
8	02/22/2011	(894416)
9	06/21/2011	(934176)
10	02/09/2012	(983760)
11	02/27/2012	(989145)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/22/2011 (894416) CN604061739  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)

Description: Failure to provide a backflow prevention program.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to conduct annual tank inspections.  
  
 Date: 02/10/2012 (983760) CN600688865  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Section IV Conditions of Permit, Quality PERMIT  
 Description: Failure to maintain the oil and grease within the permitted allowable of 20 mg/L as stated in Water Quality permit number WQ0004440000, Section IV Conditions of Permit, Quality.  
  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Section V - Special Provisions, J PERMIT  
 Description: Failure to conduct sampling and submit the annual soil sampling report for 2011 as required by Water Quality permit number WQ0004440000, Section V - Special Provisions, J.  
  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Section IV, Application Rates PERMIT  
 Description: Failure to record the permit required hydraulic loading rate, nitrogen loading rate, and organic loading rate on an annual basis.

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** § **BEFORE THE**  
**ENFORCEMENT ACTION** §  
**CONCERNING** § **TEXAS COMMISSION ON**  
**USM MANUFACTURING L.L.C.** §  
**DBA PRATERS FOODS** §  
**RN101254803** § **ENVIRONMENTAL QUALITY**

**AGREED ORDER**  
**DOCKET NO. 2012-1319-MLM-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding USM Manufacturing L.L.C. dba Praters Foods ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a frozen food processing facility with an associated wastewater treatment plant located approximately 0.25 mile east of the intersection of 114th Street and University Avenue south-southeast of Lubbock, Lubbock County, Texas (the "WWTP Facility").
2. The Respondent owns and operates a public water supply ("PWS") located at 2206 114<sup>th</sup> Street in Lubbock, Lubbock County, Texas (the "PWS Facility") that has approximately one service connection and serves at least 25 people per day for at least 60 days per year.
3. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
4. The Executive Director 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.
5. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 4, 2012.
6. 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.

7. An administrative penalty in the amount of Twenty-Four Thousand Six Hundred Seventy-Three Dollars (\$24,673) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nineteen Thousand Seven Hundred Thirty-Nine Dollars (\$19,739) of the administrative penalty and Four Thousand Nine Hundred Thirty-Four Dollars (\$4,934) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
8. 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.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures:
  - a. By July 6, 2012, submitted an application requesting the transfer of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004440000 into the Respondent's name as owner and operator;
  - b. By July 16, 2012, obtained coverage under TPDES Multi-Sector General Permit TXRNEY992 to discharge storm water;
  - c. By July 18, 2012, hired a licensed operator to perform all operations at the PWS Facility;
  - d. By July 19, 2012, tested the abandoned wells at the PWS Facility; and
  - e. By August 9, 2012, transferred TPDES Permit No. WQ0004440000 to reflect the new ownership.
10. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
11. 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.
12. 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.
13. 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 WWTP Facility and the PWS Facility, the Respondent is alleged to have:

1. Failed to operate the PWS Facility under the direct supervision of properly licensed individual holding the appropriate level of license to operate the PWS Facility, in violation of 30 TEX. ADMIN. CODE § 290.46(e) and TEX. HEALTH & SAFETY CODE § 341.033(a), as documented during an investigation conducted on May 24, 2012. Specifically, the monthly bacteriological samples from December 2010 to April 2012 were being collected by an unlicensed individual.
2. Failed to ensure that abandoned wells that are not in use and are non-deteriorated are either tested every five years or plugged, in violation of 30 TEX. ADMIN. CODE § 290.46(u), as documented during an investigation conducted on May 24, 2012. Specifically, an unidentified well, located on the north side of the PWS Facility, had not been in use since about 2005 and had not been tested or plugged.
3. Failed to obtain authorization prior to treating and discharging wastewater from the Facility's processing operation, in violation of TEX. WATER CODE § 26.121, as documented during an investigation conducted on May 24, 2012. Specifically, the Respondent began treating and discharging wastewater from the WWTP Facility without transferring TPDES Permit No. WQ0004440000 as of August 3, 2009.
4. Failed to obtain authorization to discharge storm water associated with industrial activities at the WWTP Facility under the TPDES Multi-Sector General Permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on May 24, 2012.

## 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 7 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: USM Manufacturing L.L.C. dba Praters Foods, Docket No. 2012-1319-MLM-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3

2. 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 PWS Facility and the WWTP Facility operations referenced in this Agreed Order.
3. 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.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Zawieja  
For the Executive Director

2/8/13  
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.

R. Gantt Bumstead

Signature

\_\_\_\_\_  
Date

R. Gantt Bumstead

Name (Printed or typed)

Co-President

Title

Authorized Representative of

USM Manufacturing L.L.C. dba Praters Foods

**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.