

**Executive Summary – Enforcement Matter – Case No. 45495**

**City of Pyote**

**RN101389179**

**Docket No. 2012-2347-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

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

City of Pyote PWS, 100 East 11th Street, Pyote, Ward County

**Type of Operation:**

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:** April 26, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,620

**Amount Deferred for Expedited Settlement:** \$0

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

**Total Paid to General Revenue:** \$1,620

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

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - High

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. 45495**

**City of Pyote**

**RN101389179**

**Docket No. 2012-2347-PWS-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** October 22, 2012

**Date(s) of NOE(s):** November 7, 2012

***Violation Information***

1. Failed to submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director each quarter by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].

2. Failed to collect routine distribution water samples for coliform analysis and failed to post public notification of the failure to collect routine distribution water samples [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

a. Within 10 days:

i. Begin complying with applicable coliform monitoring requirements by collecting routine distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and

ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility.

b. Within 30 days, update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs.

c. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.ii. and b.

**Executive Summary – Enforcement Matter – Case No. 45495**  
**City of Pyote**  
**RN101389179**  
**Docket No. 2012-2347-PWS-E**

d. Within 90 days, begin submitting DLQORs to the ED each quarter, by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.

e. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.i.

f. Within 285 days, submit written certification demonstrating compliance with Ordering Provision d.

***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:** Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Lloyd Collins, Mayor Pro-Tem, City of Pyote, P.O. Box 137, Pyote, Texas 79777

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	12-Nov-2012	<b>Screening</b>	14-Nov-2012	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	15-Nov-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	City of Pyote		
<b>Reg. Ent. Ref. No.</b>	RN101389179		
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	45495	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-2347-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jim Fisher
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$400**

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

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

**Compliance History** **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$80**

Notes: Enhancement for six NOVs with the same/similar violations. Reduction for high performer classification.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$102
Approx. Cost of Compliance	\$235

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$480**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** **\$480**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$480**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$480**

**Screening Date** 14-Nov-2012

**Docket No.** 2012-2347-PWS-E

**PCW**

**Respondent** City of Pyote

Policy Revision 2 (September 2002)

**Case ID No.** 45495

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101389179

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Jim Fisher

**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> )	6	30%
	Other written NOVs	0	0%
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)** 30%

No

>> **Repeat Violator (Subtotal 3)**

N/A

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

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for six NOVs with the same/similar violations. Reduction for high performer classification.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

Screening Date 14-Nov-2012

Docket No. 2012-2347-PWS-E

PCW

Respondent City of Pyote

Policy Revision 2 (September 2002)

Case ID No. 45495

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101389179

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, the Respondent did not submit DLQORs from the third quarter of 2010 through the second quarter of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Adjustment \$900

\$100

Violation Events

Number of Violation Events 4 Number of violation days 360

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

Violation Base Penalty \$400

Four quarterly events are recommended, based on the quarters the required reports were not submitted.

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 \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$480

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

# Economic Benefit Worksheet

**Respondent** City of Pyote  
**Case ID No.** 45495  
**Reg. Ent. Reference No.** RN101389179  
**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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	22-Oct-2012	30-Jun-2013	0.69	\$2	n/a	\$2
Training/Sampling	\$100	22-Oct-2012	30-Jun-2013	0.69	\$3	n/a	\$3
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 necessary to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished including but not limited to the submittal of signed and certified quarterly DLQORs, calculated from the record review date 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]	\$90	10-Oct-2010	10-Jul-2011	1.67	\$7	\$90	\$97
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to prepare and submit four DLQORs (\$22.50 per report) for the period in which the DLQORs were due.

Approx. Cost of Compliance

\$235

**TOTAL**

\$102



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	12-Nov-2012	<b>Screening</b>	14-Nov-2012	<b>EPA Due</b>	30-Jun-2012
	<b>PCW</b>	15-Nov-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Pyote		
<b>Reg. Ent. Ref. No.</b>	RN101389179		
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45495	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-2347-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jim Fisher
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$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

Enhancement for six NOV's with the same/similar violations. Reduction for high performer classification.

**Culpability**

Enhancement

**Subtotal 4**

Notes

The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments**

**Subtotal 5**

**Economic Benefit**

Enhancement\*

**Subtotal 6**

Total EB Amounts	\$346
Approx. Cost of Compliance	\$560

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

Notes

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**Screening Date** 14-Nov-2012

**Docket No.** 2012-2347-PWS-E

**PCW**

**Respondent** City of Pyote

Policy Revision 3 (September 2011)

**Case ID No.** 45495

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101389179

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Jim Fisher

### 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> )	6	30%
	Other written NOVs	0	0%
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)** 30%

>> **Repeat Violator (Subtotal 3)**

N/A

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

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for six NOVs with the same/similar violations. Reduction for high performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%

Screening Date 14-Nov-2012

Docket No. 2012-2347-PWS-E

PCW

Respondent City of Pyote

Policy Revision 3 (September 2011)

Case ID No. 45495

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101389179

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of March 2012 through July 2012 and failed to post public notification of the failure to collect routine distribution water samples for the months of March 2012 through June 2012.

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 collect routine distribution coliform samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 5 Number of violation days 153

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

Violation Base Penalty \$750

Five monthly events are recommended, based on the months the required samples were not collected.

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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$249

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

# Economic Benefit Worksheet

**Respondent** City of Pyote  
**Case ID No.** 45495  
**Reg. Ent. Reference No.** RN101389179  
**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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	22-Oct-2012	30-Jun-2013	0.69	\$2	n/a	\$2
Training/Sampling	\$100	22-Oct-2012	30-Jun-2013	0.69	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	22-Oct-2012	30-Jun-2013	0.69	\$3	n/a	\$3

#### Notes for DELAYED costs

The delayed cost includes the estimated amounts to update the Facility's operational guidance and conduct employee training to ensure that all required coliform distribution samples are collected, calculated from the record review date to the estimated date of compliance. The other delayed cost includes the estimated amount necessary to develop and implement procedures to ensure all necessary public notifications are provided in a timely manner, calculated from the record review date 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]	\$100	1-Apr-2012	30-Sep-2012	1.42	\$7	\$100	\$107
Other (as needed)	\$125	1-Mar-2012	31-Jul-2012	1.33	\$8	\$125	\$133

#### Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount necessary to provide public notifications (\$25 per notice x 4), calculated for the period public notification was required. The other avoided cost includes the estimated amount necessary to conduct routine coliform sampling (\$25 x 5 samples), calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$470

**TOTAL**

\$249

Screening Date 14-Nov-2012

Docket No. 2012-2347-PWS-E

PCW

Respondent City of Pyote

Policy Revision 3 (September 2011)

Case ID No. 45495

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101389179

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3)

Violation Description

Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, the Respondent did not submit DLQORs from the third quarter of 2011 through the second quarter of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 4

360 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$200

Four quarterly events are recommended, based on the quarters the required reports were not submitted.

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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$98

Violation Final Penalty Total \$240

This violation Final Assessed Penalty (adjusted for limits) \$240

# Economic Benefit Worksheet

**Respondent** City of Pyote  
**Case ID No.** 45495  
**Reg. Ent. Reference No.** RN101389179  
**Media** Public Water Supply  
**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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed costs are captured in the Economic Benefit for Violation No. 1 of the PCW Revision No. 2.

**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>	\$90	10-Oct-2011	10-Jul-2012	1.67	\$8	\$90	\$98
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The avoided cost includes the estimated amount to prepare and submit four DLQORs (\$22.50 per report) for the period in which the DLQORs were due.

**Approx. Cost of Compliance**

\$90

**TOTAL**

\$98



# Compliance History Report

**PENDING** Compliance History Report for CN600650915, RN101389179, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600650915, City of Pyote	<b>Classification:</b>	HIGH	<b>Rating:</b>	0.00
<b>Regulated Entity:</b>	RN101389179, City Of Pyote	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	08 - Sewage Treatment Facilities				
<b>Location:</b>	100 EAST 11TH ST PYOTE, WARD COUNTY, TX 79777				
<b>TCEQ Region:</b>	REGION 07 - MIDLAND				
<b>ID Number(s):</b>	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2380005 WATER LICENSING LICENSE 2380005				

<b>Compliance History Period:</b>	September 01, 2007 to August 31, 2012	<b>Rating Year:</b>	2012	<b>Rating Date:</b>	09/01/2012
<b>Date Compliance History Report Prepared:</b>	November 14, 2012				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	November 14, 2007 to November 14, 2012				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Jim Fisher			<b>Phone:</b>	(512) 239-2537

## Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	January 30, 2009	(725442)
Item 2	September 30, 2011	(958149)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/07/2012	(1042339)	CN600650915
	Self Report?	NO		Classification: Moderate

	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description:	TCR Routine Monitoring Violation 03/2012 - Failure to collect any routine monitoring sample(s).		
2	Date:	06/22/2012 (1042339)	CN600650915	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description:	TCR Routine Monitoring Violation 04/2012 - Failure to collect any routine monitoring sample(s).		
3	Date:	07/23/2012 (1042339)	CN600650915	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description:	TCR Routine Monitoring Violation 05/2012 - Failure to collect any routine monitoring sample(s).		
4	Date:	07/24/2012 (1042339)	CN600650915	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)		
	Description:	MARCH/2012 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 03/2012.		
5	Date:	09/19/2012 (1042339)	CN600650915	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description:	TCR Routine Monitoring Violation 06/2012 - Failure to collect any routine monitoring sample(s).		
6	Date:	10/11/2012 (1042339)	CN600650915	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)		
	Description:	TCR Routine Monitoring Violation 07/2012 - Failure to collect any routine monitoring sample(s).		

**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  
CITY OF PYOTE  
RN101389179**

**§       BEFORE THE  
§  
§       TEXAS COMMISSION ON  
§  
§       ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2012-2347-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Pyote ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply at 100 East 11th Street in Pyote, Ward County, Texas (the "Facility") that has approximately 72 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on October 22, 2012, TCEQ staff documented that the Respondent did not submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director from the third quarter of 2010 through the second quarter of 2012.
3. During a record review conducted on October 22, 2012, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the months of March 2012 through July 2012 and did not post public notification of the failure to collect routine distribution water samples for the months of March 2012 through June 2012.
4. The Respondent received notice of the violations on November 15, 2012.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to post public notification of the failure to collect routine distribution water samples, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Thousand Six Hundred Twenty Dollars (\$1,620) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Six Hundred Twenty Dollar (\$1,620) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Six Hundred Twenty Dollars (\$1,620) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Pyote, Docket No. 2012-2347-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order:
    - i. Begin complying with applicable coliform monitoring requirements by collecting routine distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting; and
    - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122.
  - b. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submission of signed and certified DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110;
  - c. Within 45 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 including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.ii. and 2.b.
  - d. Within 90 days after the effective date of this Agreed Order, begin submitting DLQORs to the Executive Director each quarter, by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

DLQOR Coordinator  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- e. Within 195 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 including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i; and
- f. Within 285 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.d. 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:

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

- 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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Pam Jarama*  
For the Executive Director

5/8/13  
Date

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

I understand that by entering into this Agreed Order, the City of Pyote waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

*Lloyd F. Collins*  
Signature

26 FEB. 2013  
Date

LLOYD F. COLLINS  
Name (Printed or typed)  
Authorized Representative of  
City of Pyote

MAYOR PROTEM  
Title

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