

**Executive Summary – Enforcement Matter – Case No. 38789**

**PATTON LAKE, INC.**

**RN101455848**

**Docket No. 2013-1944-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order.

**Media:**

PWS

**Small Business:**

Yes

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

Patton Lake Club, 25816 Roping Pen Road, Montgomery 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:** March 7, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$3,960

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

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

**Total Paid to General Revenue:** \$460

**Total Due to General Revenue:** \$3,500

Payment Plan: 35 payments of \$100 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unclassified

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** September 5, 2013

**Date(s) of NOE(s):** September 27, 2013

**Executive Summary – Enforcement Matter – Case No. 38789**

**PATTON LAKE, INC.**

**RN101455848**

**Docket No. 2013-1944-PWS-E**

***Violation Information***

1. Failed to locate the Facility's well at least 150 feet from a septic tank perforated drainfield [30 TEX. ADMIN. CODE § 290.41(c)(1)(A) and TCEQ Agreed Order Docket No. 2009-1946-PWS-E, Ordering Provision No. 2.e.i.].
2. Failed to obtain a sanitary control easement for all land within 150 feet of the Facility's water well [30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2009-1946-PWS-E, Ordering Provision No. 2.c.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, submit a request for an exception pursuant to 30 TEX. ADMIN. CODE § 290.39 to the rule requiring a sanitary control easement that covers the land within 150 feet of the well. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the exception request within 30 days after the date of such requests, or by any other deadline specified in writing;
- b. Within 120 days, obtain an exception to the sanitary control easement requirement or obtain a sanitary control easement that covers the land within 150 feet of the well;
- c. Within 135 days, submit written certification to demonstrate compliance with Ordering Provision b.;
- d. Within 180 days, relocate the septic system drain field to a site that is a minimum of 150 feet from the Facility's well or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39; and
- e. Within 195 days, submit written certification to demonstrate 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

**Executive Summary – Enforcement Matter – Case No. 38789  
PATTON LAKE, INC.  
RN101455848  
Docket No. 2013-1944-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Angela Maddux, Treasurer, PATTON LAKE, INC., 25682 Roping Pen Road, Splendora, Texas 77372

Monroe Gage, President, PATTON LAKE, INC., 25682 Roping Pen Road, Splendora, Texas 77372

**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> | 7-Oct-2013  | <b>Screening</b> | 10-Oct-2013 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 15-Oct-2013 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |                   |                                 |
|-----------------------------|-------------------|---------------------------------|
| <b>Respondent</b>           | PATTON LAKE, INC. |                                 |
| <b>Reg. Ent. Ref. No.</b>   | RN101455848       |                                 |
| <b>Facility/Site Region</b> | 12-Houston        | <b>Major/Minor Source</b> Minor |

## CASE INFORMATION

|  |                     |                              |                    |         |
|--|---------------------|------------------------------|--------------------|---------|
| <b>Enf./Case ID No.</b>                | 38789               | <b>No. of Violations</b>     | 2                  |         |
| <b>Docket No.</b>                      | 2013-1944-PWS-E     | <b>Order Type</b>            | Findings           |         |
| <b>Media Program(s)</b>                | Public Water Supply | <b>Government/Non-Profit</b> | No                 |         |
| <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

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

Notes

**PAYABLE PENALTY**

**Screening Date** 10-Oct-2013

**Docket No.** 2013-1944-PWS-E

**PCW**

**Respondent** PATTON LAKE, INC.

Policy Revision 2 (September 2002)

**Case ID No.** 38789

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101455848

**Media [Statute]** Public Water Supply

**Enf. Coordinator** 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> )  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 1                 | 20%     |
|                               | 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)** 20%

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

N/A

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

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

Unclassified

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one agreed order containing a denial of liability.

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

Screening Date 10-Oct-2013

Docket No. 2013-1944-PWS-E

PCW

Respondent PATTON LAKE, INC.

Policy Revision 2 (September 2002)

Case ID No. 38789

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101455848

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(A) and TCEQ Agreed Order Docket No. 2009-1946-PWS-E, Ordering Provision No. 2.e.i

Violation Description Failed to locate the Facility's well at least 150 feet from a septic tank perforated drainfield. Specifically, the distance from the well to the septic drainfield located at 25816 Roping Pen Road was documented to be 110 feet.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 25%     |
| Potential | x     |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

Matrix Notes

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

Adjustment \$750

\$250

Violation Events

Number of Violation Events 13 Number of violation days 1187

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

Violation Base Penalty \$3,250

Thirteen quarterly events are recommended, calculated from the July 11, 2010 effective date of TCEQ Agreed Order Docket No. 2009-1946-PWS-E to the October 10, 2013 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

|               | Reduction  |                               |
|---------------|------------|-------------------------------|
|               | 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 \$3,250

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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,033

Violation Final Penalty Total \$3,900

This violation Final Assessed Penalty (adjusted for limits) \$3,900

# Economic Benefit Worksheet

**Respondent** PATTON LAKE, INC.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**Media** Public Water Supply  
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          |          |             |             |      |       |         |         |
|--------------------------|----------|-------------|-------------|------|-------|---------|---------|
| Equipment                |          |             |             | 0.00 | \$0   | \$0     | \$0     |
| Buildings                |          |             |             | 0.00 | \$0   | \$0     | \$0     |
| Other (as needed)        |          |             |             | 0.00 | \$0   | \$0     | \$0     |
| Engineering/construction | \$20,000 | 11-Jul-2010 | 31-Oct-2014 | 4.31 | \$287 | \$5,746 | \$6,033 |
| 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 cost includes the estimated amount to ensure that the well is located at least 150 feet away from a septic tank drainfield, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1946-PWS-E to the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$20,000

**TOTAL**

\$6,033

**Screening Date** 10-Oct-2013  
**Respondent** PATTON LAKE, INC.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Jim Fisher

**Docket No.** 2013-1944-PWS-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2009-1946-PWS-E, Ordering Provision No. 2.c

**Violation Description** Failed to obtain a sanitary control easement for all land within 150 feet of the Facility's water well.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

| Release   | Harm                 |                      |                                     | Percent                         |
|-----------|----------------------|----------------------|-------------------------------------|---------------------------------|
|           | Major                | Moderate             | Minor                               |                                 |
| Actual    | <input type="text"/> | <input type="text"/> | <input type="text"/>                | <input type="text" value="5%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> |                                 |

**>> Programmatic Matrix**

| Matrix Notes  | Harm                 |                      |                      | Percent                         |
|---|----------------------|----------------------|----------------------|---------------------------------|
|   | Major                | Moderate             | Minor                |                                 |
| Failure to secure a sanitary easement could expose customers of the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health. | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

|                         |                                     |                      |
|-------------------------|-------------------------------------|----------------------|
| mark only one with an x | daily                               | <input type="text"/> |
|                         | weekly                              | <input type="text"/> |
|                         | monthly                             | <input type="text"/> |
|                         | quarterly                           | <input type="text"/> |
|                         | Semiannual                          | <input type="text"/> |
|                         | annual                              | <input type="text"/> |
| single event            | <input checked="" type="checkbox"/> |                      |

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

|               | Before NOV                          | NOV to EDPRP/Settlement Offer |
|---------------|-------------------------------------|-------------------------------|
| Extraordinary | <input type="text"/>                | <input type="text"/>          |
| Ordinary      | <input type="text"/>                | <input type="text"/>          |
| N/A           | <input checked="" type="checkbox"/> | (mark with x)                 |

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

**Violation Subtotal**

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

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** PATTON LAKE, INC.  
**Case ID No.** 38789  
**Reg. Ent. Reference No.** RN101455848  
**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    | \$300 | 11-Jul-2010 | 31-Oct-2014 | 4.31 | \$65 | n/a | \$65 |
| 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 cost includes the estimated amount to secure a sanitary control easement, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1946-PWS-E to the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$300

**TOTAL**

\$65



# TCEQ Compliance History Report

**PENDING** Compliance History Report for CN600657449, RN101455848, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600657449, PATTON LAKE, INC.      **Classification:** UNCLASSIFIED      **Rating:** -----  
**Regulated Entity:** RN101455848, PATTON LAKE CLUB      **Classification:** NOT APPLICABLE      **Rating:** N/A  
**Complexity Points:** N/A      **Repeat Violator:** N/A  
**CH Group:** 14 - Other  
**Location:** 25816 ROPING PEN ROAD, MONTGOMERY COUNTY, TEXAS  
**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**      **PUBLIC WATER SYSTEM/SUPPLY**      REGISTRATION      1700488

**Compliance History Period:** September 01, 2008 to August 31, 2013      **Rating Year:** 2013      **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** October 09, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 07, 2008 to October 07, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jim Fisher      **Phone:** (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:**

- 1      Effective Date: 07/11/2010      ADMINORDER 2009-1946-PWS-E (1660 Order-Agreed Order With Denial)  
    Classification: Moderate  
    Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(A)  
    Description: Failure to locate the Facility's well at least 150 feet from a septic tank perforated drainfield.  
    Classification: Moderate  
    Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
    Description: Failure to secure a sanitary control easement covering all property within 150 feet of the Facility's water well.  
    Classification: Major  
    Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)(A)  
    Description: Failure to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities.  
    Classification: Moderate  
    Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)  
            5A THSC Chapter 341, SubChapter A 341.0315(c)  
    Description: Failure to provide a well capacity of 1.5 gallons per minute ("gpm") per connection.  
    Classification: Moderate  
    Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)  
    Description: Failure to monitor the disinfectant residual at representative locations in the distribution system at least once every seven days.

**B. Criminal convictions:** N/A

**C. Chronic excessive emissions events:** N/A

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

Item 1          December 17, 2012          (1050940)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):** N/A

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.

**F. Environmental audits:** N/A

**G. Type of environmental management systems (EMSs):** N/A

**H. Voluntary on-site compliance assessment dates:** N/A

**I. Participation in a voluntary pollution reduction program:** N/A

**J. Early compliance:** N/A

**Sites Outside of Texas:** N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

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

## **AGREED ORDER DOCKET NO. 2013-1944-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 PATTON LAKE, INC. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent 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 25816 Roping Pen Road in Montgomery County, Texas (the "Facility") that has approximately 27 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on September 5, 2013, TCEQ staff documented that the distance from the well to the septic drainfield located at 25816 Roping Pen Road was 110 feet.
3. During a record review conducted on September 5, 2013, TCEQ staff documented that the Respondent did not secure a sanitary control easement for all land within 150 feet of the Facility's water well.
4. The Respondent received notice of the violations on October 11, 2013.

## 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 locate the Facility's well at least 150 feet from a septic tank perforated drainfield, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(A) and TCEQ Agreed Order Docket No. 2009-1946-PWS-E, Ordering Provision No. 2.e.i.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to obtain a sanitary control easement for all land within 150 feet of the Facility's water well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2009-1946-PWS-E, Ordering Provision No. 2.c.
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 Three Thousand Nine Hundred Sixty Dollars (\$3,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Sixty Dollars (\$460) of the administrative penalty. The remaining amount of Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this

Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

### 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 Three Thousand Nine Hundred Sixty Dollars (\$3,960) 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: PATTON LAKE, INC., Docket No. 2013-1944-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 30 days after the effective date of this Agreed Order, submit a request for an exception pursuant to 30 TEX. ADMIN. CODE § 290.39, to the rule requiring a sanitary control easement that covers the land within 150 feet of the well, to achieve compliance with 30 TEX. ADMIN. CODE § 290.41. All exception requests shall be submitted to:

Technical Review and Oversight Team  
Water Supply Division, MC 159  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the exception request within 30 days after the date of such requests, or by any other deadline specified in writing.

- b. Within 120 days after the effective date of this Agreed Order, obtain an exception to the sanitary control easement requirement or obtain a sanitary control

easement that covers the land within 150 feet of the well, in accordance with 30 TEX. ADMIN. CODE § 290.41.

- c. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.
- d. Within 180 days after the effective date of this Agreed Order, relocate the septic system drainfield to a site that is a minimum of 150 feet from the Facility's well, as required by 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39. All exception requests shall be submitted to the address provided in Ordering Provision 2.a. above.
- e. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.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:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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

*Romona Garcia*  
For the Executive Director

4/3/14  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of PATTON LAKE, INC. I am authorized to agree to the attached Agreed Order on behalf of PATTON LAKE, INC., 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, PATTON LAKE, INC. 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.

*Angela Maddux*  
Signature

2-2-14  
Date

Angela Maddux  
Name (Printed or typed)  
Authorized Representative of  
PATTON LAKE, INC.

Treasurer  
Title

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