

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48474  
Loyal Lybarger d/b/a Ponderosa Mobile Home Park  
RN101456333  
Docket No. 2014-0442-PWS-E

**Order Type:**

Default Order

**Media:**

PWS

**Small Business:**

Yes

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

10423 Olga Lane Trailer 12, Houston, Harris County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$3,681.10 (2010-1755-MLM-E; referred for collection)  
Past-Due Fees: \$382.60 (Acct. No. 91012957)  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** November 7, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,960

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

**Total Due to General Revenue:** \$1,960

**Compliance History Classifications:**

Person/CN – N/A

Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002 (PCW 1); September 2011 (PCW 2)

**Investigation Information**

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

**Date(s) of Investigation:** February 24, 2014

**Date(s) of NOV(s):** June 14, 2013, November 14, 2013, February 26, 2014

**Date(s) of NOE(s):** March 12, 2014

**Violation Information**

1. Failed to submit Disinfectant Level Quarterly Operating Reports (“DLQORs”) to the Executive Director each quarter by the tenth day of the month following the end of each quarter for the third quarter of 2010 through the second quarter of 2011 [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR had been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].
3. Failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter for the third quarter of 2011 through the second quarter of 2013, and failed to provide public notification regarding the failure to submit DLQORs for the first and second quarters of 2013 [30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A)].
4. Failed to pay Public Health Service fees and associated fees for TCEQ Financial Administration Account No. 91012957 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. 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;
  - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility including providing public notification regarding the failure to submit DLQORs for the first and second quarters of 2013;
  - c. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2013 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers; and
  - d. Submit all payment for all outstanding fees, interest and late penalties for TCEQ Financial Administration Account No. 91012957.
2. Within 45 days, submit to the Commission a copy of the CCR provided to customers of the Facility and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data.
3. Within 90 days, begin submitting DLQORs to the Executive Director 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.
4. Submit written certification to demonstrate compliance:
  - a. Within 45 days for Technical Requirements Nos. 1.a. through 1.d.;
  - b. Within 60 days for Technical Requirement No. 2; and
  - c. Within 285 days for Technical Requirement No. 3.

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 48474**  
**Loyal Lybarger d/b/a Ponderosa Mobile Home Park**  
**RN101456333**  
**Docket No. 2014-0442-PWS-E**

**Litigation Information**

**Date Petition(s) Filed:** July 30, 2014  
**Date Green Card(s) Signed:** August 1, 2014  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Meaghan M. Bailey, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016

**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, (713) 767-3500

**Respondent Contact:** Loyal Lybarger, 10423 Olga Lane Trailer 12, Houston, Texas 77041-5740

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

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	10-Mar-2014			
	<b>PCW</b>	17-Apr-2014	<b>Screening</b>	20-Mar-2014	<b>EPA Due</b>
					30-Jun-2012

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Loyal Lybarger dba Ponderosa Mobile Home Park				
<b>Reg. Ent. Ref. No.</b>	RN101456333				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48474	<b>No. of Violations</b>	2
<b>Docket No.</b>	2014-0442-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>	Katy Montgomery
		<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** **40.0%** Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement for three NOVs with the same/similar violations and one default order.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

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

**Economic Benefit** **0.0%** 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** **24.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover the avoided costs of compliance associated with Violation Nos. 1 and 2.

**Final Penalty Amount**

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

**DEFERRAL** **0.0%** 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 20-Mar-2014

Docket No. 2014-0442-PWS-E

PCW

Respondent Loyal Lybarger dba Ponderosa Mobile Home Park

Policy Revision 2 (September 2002)

Case ID No. 48474

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101456333

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## Compliance History Worksheet

## &gt;&gt; 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> )	3	15%
	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	1	25%
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) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with the same/similar violations and one default order.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

<b>Screening Date</b>	20-Mar-2014	<b>Docket No.</b>	2014-0442-PWS-E	<b>PCW</b>
<b>Respondent</b>	Loyal Lybarger dba Ponderosa Mobile Home Park			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	48474			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101456333			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			

**Violation Number**

**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 for the third quarter of 2010 through the second quarter of 2011.

**Base Penalty**

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

100% of the rule requirement was not met.

**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="text" value="x"/>

**Violation Base Penalty**

Four single events are recommended (one for each report).

**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="text" value="x"/>	(mark with x)

Notes

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

**Violation Subtotal**

**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** Loyal Lybarger dba Ponderosa Mobile Home Park  
**Case ID No.** 48474  
**Reg. Ent. Reference No.** RN101456333  
**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	\$45	24-Feb-2014	31-Oct-2014	0.68	\$2	n/a	\$2
Training/Sampling	\$100	24-Feb-2014	31-Oct-2014	0.68	\$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 costs include the estimated amounts to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs, calculated from the date of the record review 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]	\$88	10-Oct-2010	10-Jul-2011	1.67	\$7	\$88	\$95
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to submit the DLQORs (\$22 per report), calculated from the date the DLQOR was due for the third quarter of 2010 to the date the DLQOR was due for the second quarter of 2011.

Approx. Cost of Compliance

\$233

**TOTAL**

\$100

<b>Screening Date</b>	20-Mar-2014	<b>Docket No.</b>	2014-0442-PWS-E	<b>PCW</b>
<b>Respondent</b>	Loyal Lybarger dba Ponderosa Mobile Home Park	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	48474	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101456333			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b> <input type="text" value="0%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

<b>Matrix Notes</b>	<b>Falsification</b>	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirements were not met."/>					

**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="text" value="x"/>

**Violation Base Penalty**

**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="text" value="x"/>	(mark with x)

**Notes**

**Violation Subtotal**

**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** Loyal Lybarger dba Ponderosa Mobile Home Park  
**Case ID No.** 48474  
**Reg. Ent. Reference No.** RN101456333  
**Media Violation No.** Public Water Supply  
 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

### 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]	\$62	1-Jul-2011	20-Mar-2014	3.64	\$11	\$62	\$73
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the 2010 CCR to the customers of the Facility and to the TCEQ (([\$0.50 x 23 connections] + \$50) x 1 year), calculated from the date the report was due to the screening date.

Approx. Cost of Compliance \$62

**TOTAL** \$73



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	10-Mar-2014			
	<b>PCW</b>	20-Mar-2014	<b>Screening</b>	20-Mar-2014	<b>EPA Due</b> 30-Jun-2012

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Loyal Lybarger dba Ponderosa Mobile Home Park	
<b>Reg. Ent. Ref. No.</b>	RN101456333	
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48474	<b>No. of Violations</b>	3
<b>Docket No.</b>	2014-0442-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>	Katy Montgomery
		<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** \$500

### 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>	40.0%	Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$200
Notes	Enhancement for three NOVs with the same/similar violations and one default order.			
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.			
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$396	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$449			

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$700

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 56.0% **Adjustment** \$392

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to recover the avoided costs of compliance associated with Violation Nos. 1 and 2.		
	<b>Final Penalty Amount</b>	\$1,092	

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$1,092

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

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.		
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**PAYABLE PENALTY** \$1,092

Screening Date 20-Mar-2014

Docket No. 2014-0442-PWS-E

PCW

Respondent Loyal Lybarger dba Ponderosa Mobile Home Park

Policy Revision 3 (September 2011)

Case ID No. 48474

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101456333

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

## Compliance History Worksheet

## &gt;&gt; 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> )	3	15%
	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	1	25%
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) 40%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with the same/similar violations and one default order.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 40%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 40%

**Screening Date** 20-Mar-2014 **Docket No.** 2014-0442-PWS-E **PCW**  
**Respondent** Loyal Lybarger dba Ponderosa Mobile Home Park *Policy Revision 3 (September 2011)*  
**Case ID No.** 48474 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN101456333  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Katy Montgomery

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	<b>Harm</b>			Percent <input type="text" value="0.0%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="5.0%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**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="text" value="x"/>

**Violation Base Penalty**

**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="text" value="x"/>	(mark w th x)

**Notes**

**Violation Subtotal**

**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** Loyal Lybarger dba Ponderosa Mobile Home Park  
**Case ID No.** 48474  
**Reg. Ent. Reference No.** RN101456333  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	\$100	24-Feb-2014	31-Oct-2014	0.68	\$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 to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that public notification is posted and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance. The other delayed costs are captured in the Economic Benefit Worksheet for Violation No. 1 of the Revision 2 PCW.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$176	10-Oct-2011	10-Jul-2013	2.67	\$23	\$176	\$199
Other (as needed)	\$50	11-Apr-2013	10-Oct-2013	1.42	\$4	\$50	\$54

Notes for AVOIDED costs

The avoided cost includes the estimated amount to submit the DLQORs (\$22 per report), calculated from the date the DLQOR was due for the third quarter of 2011 to the date the DLQOR was due for the second quarter of 2013. The other avoided cost includes the estimated amount to provide public notification (\$25 per notification) regarding the failure to submit DLQORs, calculated for the period public notification was required.

Approx. Cost of Compliance \$326

**TOTAL** \$256

**Screening Date** 20-Mar-2014 **Docket No.** 2014-0442-PWS-E **PCW**  
**Respondent** Loyal Lybarger dba Ponderosa Mobile Home Park *Policy Revision 3 (September 2011)*  
**Case ID No.** 48474 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN101456333  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Katy Montgomery

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCR to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2011 and 2012.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

**Matrix Notes**

**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 type="text" value="x"/>

**Violation Base Penalty**

**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 type="text" value="x"/>	(mark with x)

**Notes**

**Violation Subtotal**

**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** Loyal Lybarger dba Ponderosa Mobile Home Park  
**Case ID No.** 48474  
**Reg. Ent. Reference No.** RN101456333  
**Media Violation No.** Public Water Supply  
 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

### 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]	\$123	1-Jul-2012	20-Mar-2014	2.64	\$16	\$123	\$139
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the 2011 and 2012 CCRs to the customers of the Facility and to the TCEQ (([\$0.50 x 23 connections] + \$50) x 2 years), calculated from the date the 2011 CCR was due to the screening date.

Approx. Cost of Compliance

\$123

**TOTAL**

\$139

<b>Screening Date</b>	20-Mar-2014	<b>Docket No.</b>	2014-0442-PWS-E	<b>PCW</b>
<b>Respondent</b>	Loyal Lybarger dba Ponderosa Mobile Home Park			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	48474			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN101456333			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Katy Montgomery			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

		Harm			
		Major	Moderate	Minor	
<b>OR</b>	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0.0%"/>

Matrix Notes

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

<i>mark only one with an x</i>	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 type="text"/>	

**Violation Base Penalty**

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

**Good Faith Efforts to Comply**

Reduction

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

Notes

**Violation Subtotal**

**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** Loyal Lybarger dba Ponderosa Mobile Home Park  
**Case ID No.** 48474  
**Reg. Ent. Reference No.** RN101456333  
**Media** Public Water Supply  
**Violation No.** 3

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

N/A

### 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

N/A

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600663256, RN101456333, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600663256, Loyal Lybarger

**Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101456333, Ponderosa Mobile Home Park

**Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 10423 OLGA LANE TRAILER 12, HOUSTON, HARRIS COUNTY, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012957

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

**Date Compliance History Report Prepared:** March 20, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 20, 2009 to March 20, 2014

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

**Name:** Katy Montgomery

**Phone:** (210) 403-4016

## 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: 01/08/2012 ADMINORDER 2010-1755-MLM-E (Findings Order-Default)**

**Classification:** Moderate

**Citation:** 2B TWC Chapter 13, SubChapter A 13.1395(b)(2)  
30 TAC Chapter 290, SubChapter D 290.39(o)(1)  
30 TAC Chapter 291, SubChapter L 291.162(a)  
30 TAC Chapter 291, SubChapter L 291.162(j)

**Description:** Failure to submit an Emergency Preparedness Plan by the required date.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

**Description:** TCR Repeat Monitoring Violation 10/2009 - Failure to collect all repeats following a coliform found result.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

**Description:** TCR PN Repeat Monitoring Violation 10/2009 - Failure to post a public notice for not collecting any repeats following a coliform found result.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
5A THSC Chapter 341, SubChapter A 341.031(a)

**Description:** TCR MCL Violation 11/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
5A THSC Chapter 341, SubChapter A 341.031(a)

**Description:** TCR PN MCL Violation 11/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
5A THSC Chapter 341, SubChapter A 341.031(a)

**Description:** TCR MCL Violation 07/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

**Description:** TCR Repeat Monitoring Violation 11/2009 - Failure to collect all repeats following a coliform found result.

**Classification:** Moderate

**Citation:** 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

**Description:** TCR PN Repeat Monitoring Violation 11/2009 - Failure to post a public notice for not collecting all repeats following a coliform found result.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
Description: TCR Increase Routine Monitoring Violation 12/2009 - Failure to collect all 5 distribution samples following a coliform found month.  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Increase Routine Monitoring Violation 12/2009 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

**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: 06/14/2013 (1152270) CN600663256**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)  
30 TAC Chapter 290, SubChapter H 290.274(c)  
Description: CCR 2011 - The system failed to provide the Consumer Confidence Report (CCR) for 2011 to its bill-paying customers and/or the TCEQ by July 1st of the following year.
- 2 Date: 11/14/2013 (1152270) CN600663256**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)  
30 TAC Chapter 290, SubChapter H 290.274(c)  
Description: CCR 2012 - The system failed to provide the Consumer Confidence Report (CCR) for 2012 to its bill-paying customers and/or the TCEQ by July 1st of the following year.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: DLQOR MR 1Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2013 within the required timeline.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.110(f)(2)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)  
Description: DLQOR MR 2Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 2nd quarter of 2013 within the required timeline.
- 3 Date: 02/26/2014 (1152270) CN600663256**  
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: DLQOR MR PN 1Q2013 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 a disinfectant monitoring and reporting violation for the 1st quarter of 2013.  
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: DLQOR MR PN 2Q2013 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 a disinfectant monitoring and reporting violation for the 2nd quarter of 2013.

**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  
LOYAL LYBARGER DBA  
PONDEROSA MOBILE HOME PARK;  
RN101456333**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2014-0442-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Loyal Lybarger d/b/a Ponderosa Mobile Home Park ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at 10423 Olga Lane Trailer 12 in Houston, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 23 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on February 24, 2014, TCEQ Central Office staff documented that Respondent:
  - a. Failed to submit Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director each quarter by the tenth day of the month following the end of each quarter for the third quarter of 2010 through the second quarter of 2011;
  - b. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR had been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for the years 2010, 2011, and 2012;
  - c. Failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter, and failed to provide public notification regarding the failure to submit DLQORs. Specifically, Respondent did not submit DLQORs for the third quarter of 2011 through the second quarter of 2013 and did not provide public notification regarding the failure to submit DLQORs for the first and second quarters of 2013;
  - d. Failed to pay Public Health Service fees and associated fees for TCEQ Financial Administration Account No. 91012957 for Fiscal Years 2012 through 2014.

3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Loyal Lybarger d/b/a Ponderosa Mobile Home Park" (the "EDPRP") in the TCEQ Chief Clerk's office on July 30, 2014.
4. By letter dated July 30, 2014, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on August 1, 2014, as evidenced by the signature on the certified mail "green card."
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit DLQORs 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 Finding of Fact No. 2.b., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year, and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR had been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter, and failed to provide public notification regarding the failure to submit DLQORs, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to pay Public Health Service fees and associated fees for TCEQ Financial Administration Account No. 91012957 for Fiscal Years 2012 through 2014, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
6. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE ch. 341.049 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
7. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE ch. 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE ch. 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. HEALTH & SAFETY CODE ch. 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of one thousand nine hundred sixty dollars (\$1,960.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE ch. 341.049.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of one thousand nine hundred sixty dollars (\$1,960.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Loyal Lybarger d/b/a Ponderosa Mobile Home Park; Docket No. 2014-0442-PWS-E" to:

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. 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, in accordance with 30 TEX. ADMIN. CODE § 290.110.
    - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility including providing public notification regarding the failure to submit DLQORs for the first and second quarters of 2013, in accordance with 30 TEX. ADMIN. CODE § 290.122.
    - iii. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2013 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, in accordance with 30 TEX. ADMIN. CODE § 290.274.
    - iv. Submit all payment for all outstanding fees, interest and late penalties for TCEQ Financial Administration Account No. 91012957. The payment shall be sent with the notation: "Loyal Lybarger d/b/a Ponderosa Mobile Home Park, Account No. 91012957" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 124  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Respondent shall:
- i. Submit written certification, in accordance with Paragraph 3.f., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. through 3.a.iv.; and
  - ii. Submit to the Commission a copy of the CCR provided to customers of the Facility pursuant to Ordering Provision No. 3.a.iii, above and the certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, in accordance with 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to :  

Public Drinking Water Section  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
- c. Within 60 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Paragraph 3.f., below, to demonstrate compliance with Ordering Provision No. 3.b.ii.
- d. Within 90 days after the effective date of this Order, Respondent shall 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 285 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Paragraph 3.f., below, to demonstrate compliance with Ordering Provision No. 3.d.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:  

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed in Ordering Provision No. 3.f., above.
7. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF MEAGHAN M. BAILEY**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

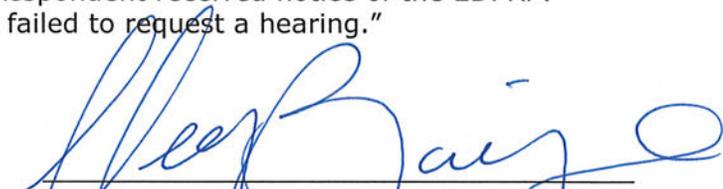
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"My name is Meaghan M. Bailey. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Loyal Lybarger d/b/a Ponderosa Mobile Home Park" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on July 30, 2014.

The EDPRP was mailed to Respondent's last known address on July 30, 2014, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on August 1, 2014, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

  
\_\_\_\_\_  
Meaghan M. Bailey, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Meaghan M. Bailey, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 17<sup>th</sup> day of October, A.D. 2014.

  
\_\_\_\_\_  
Notary Signature



Notary without Bond