

**Executive Summary – Enforcement Matter – Case No. 49051**  
**Pettus Municipal Utility District**  
**RN101182053**  
**Docket No. 2014-1120-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

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

**Media:**

PWS

**Small Business:**

Yes

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

Pettus Municipal Utility District, 209 Hodges Street, Pettus, Bee 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:** November 21, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$753

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

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

**Total Paid to General Revenue:** \$753

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

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Unclassified

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

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**RN101182053**  
**Docket No. 2014-1120-PWS-E**

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** July 7, 2014 through July 18, 2014

**Date(s) of NOE(s):** July 18, 2014

***Violation Information***

1. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director ("ED") each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed at an approved laboratory, and submit the results to the ED [30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - 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; and
  - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the ED within ten days following the end of each monitoring period.
- b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.
- c. Within 90 days:
  - i. Begin submitting DLQORs to the ED each quarter by the tenth day of the month following the end of the quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting; and
  - ii. Begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to

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the ED within ten days of the month following the end of the monitoring period. This provision will be satisfied upon one compliant monitoring period.

d. Within 285 days, submit written certification to demonstrate compliance with Ordering Provision c.i.

e. Within 470 days, submit written certification to demonstrate compliance with Ordering Provision c.ii.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

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

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Lisa Westbrook, Enforcement Division,  
Enforcement Team 2, MC 169, (512) 239-1160; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Karen Kibbe, Board President, Pettus Municipal Utility District, P.O.  
Box 153, Pettus, Texas 78146

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	21-Jul-2014	<b>Screening</b>	28-Jul-2014	<b>EPA Due</b>	31-Dec-2014
	<b>PCW</b>	2-Sep-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Pettus Municipal Utility District				
<b>Reg. Ent. Ref. No.</b>	RN101182053				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	49051	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2014-1120-PWS-E	<b>Order Type</b>	Findings	
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Lisa Westbrook	
		<b>EC's Team</b>	Enforcement Team 2	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$550
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	37.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$203
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Notes: Enhancement for three NOV's with the same/similar violations, one NOV with dissimilar violations, and one agreed order with a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$570
Estimated Cost of Compliance	\$721

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$753
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$753
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$753
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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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.

<b>PAYABLE PENALTY</b>	\$753
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Screening Date 28-Jul-2014

Docket No. 2014-1120-PWS-E

PCW

Respondent Pettus Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 49051

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101182053

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

### 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> )	3	15%
	Other written NOVs	1	2%
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 judgments 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) 37%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with the same/similar violations, one NOV with dissimilar violations, and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 37%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 37%

Screening Date 28-Jul-2014

Docket No. 2014-1120-PWS-E

PCW

Respondent Pettus Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 49051

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101182053

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

Violation Number 1

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

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, the Respondent did not submit DLQORs for the second quarter of 2012 through the first quarter of 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0.0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			5.0%
100% of the rule requirement was not met.					

Adjustment \$950

\$50

Violation Events

Number of Violation Events 8 729 Number of violation days

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

Violation Base Penalty \$400

Eight single events are recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/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 \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$208 Violation Final Penalty Total \$548

This violation Final Assessed Penalty (adjusted for limits) \$548

# Economic Benefit Worksheet

**Respondent** Pettus Municipal Utility District  
**Case ID No.** 49051  
**Reg. Ent. Reference No.** RN101182053  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	7-Jul-2014	28-Feb-2015	0.65	\$1	n/a	\$1
Training/Sampling	\$100	7-Jul-2014	28-Feb-2015	0.65	\$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 record keeping system and training/sampling delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that the self-reporting requirements are properly accomplished, including the timely submittal of signed and certified quarterly DLQORs, calculated from the record review date to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$176	10-Jul-2012	10-Apr-2014	2.67	\$23	\$176	\$199
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to prepare and submit DLQORs (\$22 per report x eight missed reports), calculated from the date the report was due for the second quarter of 2012 to the date the report was due for the first quarter of 2014.

Approx. Cost of Compliance

\$321

**TOTAL**

\$208

Screening Date 28-Jul-2014

Docket No. 2014-1120-PWS-E

PCW

Respondent Pettus Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 49051

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101182053

Media [Statute] Public Water Supply

Enf. Coordinator Lisa Westbrook

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.117(c)(2) and (l)(1)

Violation Description

Failed to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director. Specifically, it was documented that the Respondent did not collect the required lead and copper samples for the January 1, 2011 through December 31, 2013 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples could expose persons served by the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

1095 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$362

Violation Final Penalty Total \$206

This violation Final Assessed Penalty (adjusted for limits) \$206

## Economic Benefit Worksheet

**Respondent** Pettus Municipal Utility District  
**Case ID No.** 49051  
**Reg. Ent. Reference No.** RN101182053  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	7-Jul-2014	28-Feb-2015	0.65	\$3	n/a	\$3

**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 future lead and copper samples are collected by the Facility's personnel, analyzed by the Facility's laboratories, and reported to the Executive Director, calculated from the record review date to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	1-Jan-2011	31-Dec-2013	3.92	\$59	\$300	\$359
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

The one-time avoided cost includes the estimated amount to collect and have all lead and copper samples analyzed (\$30 per sample x ten samples), calculated for the monitoring period in which samples were required.

Approx. Cost of Compliance

\$400

**TOTAL**

\$362

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 CN600629521, RN101182053, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600629521, Pettus Municipal Utility District **Classification:** SATISFACTORY **Rating:** 24.72

**Regulated Entity:** RN101182053, Pettus Municipal Utility District **Classification:** UNCLASSIFIED **Rating:** -----

**Complexity Points:** 0 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 209 HODGES STREET, PETTUS, BEE COUNTY, TEXAS

**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0130013

**WATER LICENSING LICENSE** 0130013

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

**Date Compliance History Report Prepared:** July 28, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 28, 2009 to July 28, 2014

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

**Name:** Lisa Westbrook

**Phone:** (512) 239-1160

**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: 09/26/2010 ADMINORDER 2010-0302-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)

Description: Failed to test all backflow prevention assemblies which are installed to provide protection against health hazards and certify that the assemble is operating within specifications at least annually by a recognized backflow assembly tester.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failed to maintain an up-to date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency and specifies the analytical procedures and laboratory that the Facility will use to comply with the monitoring requirements.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)

Description: Failed to provide Facility records to Commission personnel at the time of the investigation.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failed to provide an overflow cover that fits tightly with no gap over 1/16 inch at the standpipe.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failed to verify the accuracy of the manual disinfectant residual analyzers at least once every 30 days using chlorine solutions of known concentrations.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a total well capacity of 0.6 gallons per minute ("gpm") per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to operate the disinfection equipment to maintain the residual disinfectant concentration in the water within the distribution system at least 0.2 mg/L of free chlorine.

**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:        | 11/14/2013 (1180343)  | CN600629521              |
|   | Self Report? | NO  | Classification: Moderate |
|   | Citation:    | 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)<br>30 TAC Chapter 290, SubChapter F 290.110(e)(5)<br>30 TAC Chapter 290, SubChapter F 290.110(f)(2)<br>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 second quarter of 2013 within the required timeline.                               |                          |
|   | Self Report? | NO  | Classification: Moderate |
|   | Citation:    | 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)<br>30 TAC Chapter 290, SubChapter F 290.110(e)(5)<br>30 TAC Chapter 290, SubChapter F 290.110(f)(2)<br>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 first quarter of 2013 within the required timeline.                                |                          |
| 2 | Date:        | 11/18/2013 (1121625)  | CN600629521              |
|   | Self Report? | NO  | Classification: Minor    |
|   | Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(m)  |                          |
|   | Description: | Failure to ensure the good working condition and general appearance of the system's facilities and equipment.   |                          |
|   | Self Report? | NO  | Classification: Minor    |
|   | Citation:    | 30 TAC Chapter 290, SubChapter D 290.46(f)(2)<br>30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)<br>30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)  |                          |
|   | Description: | Failure to maintain public water system operating records accessible for review during inspections.   |                          |
|   | Self Report? | NO  | Classification: Minor    |
|   | Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)  |                          |
|   | Description: | Failed to provide a suitable sampling cock on the discharge pipe of each well prior to any treatment.   |                          |
|   | Self Report? | NO  | Classification: Moderate |

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(F)(i)  
 Description: Failed to collect and submit microbiological samples for analysis until three successive daily raw water samples are free of coliform organisms before the well was put back in service after maintenance.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)  
 Description: Failed to maintain a concrete sealing block extending at least three feet from the well casing in all directions, with a minimum thickness of six inches and sloped to drain away at not less than 0.25 inches per foot around the wellhead.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(37)  
 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
 Description: Failed to enclose the well with an intruder-resistant fence or lockable ventilated well house.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
 Description: Failed to maintain water system electrical wiring installed securely in compliance with a local or national electrical code.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(L)  
 Description: Failed to terminate the discharge of a well blow-off line in a downward direction and at a point which will not be submerged by flood waters.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)  
 Description: Failed to prohibit a water connection from any public drinking water system to any residence or establishment where an actual or potential contamination hazard exists unless the public water facilities are protected from contamination.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)  
 Description: Failed to provide a full-face self-contained breathing apparatus (SCBA) or supplied air respirator that meets OSHA standards readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)  
 Description: Failed to equip air injection lines with filters or other devices to prevent compressor lubricants and other contaminants from entering the pressure tank.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
 Description: Failed to provide a liquid level indicator located at the tank site.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
 Description: Failed to provide a thorough plant operations manual.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.38(37)  
 30 TAC Chapter 290, SubChapter D 290.43(e)  
 Description: Failed to enclose all potable water storage tanks in a lockable building or intruder-resistant fence with lockable gates.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(5)  
 Description: Failed to locate inlet and outlet connections so as to prevent short-circuiting or stagnation of water.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)(3)  
 Description: Failed to notify the executive director in writing as to the completion of the water works project and attest to the fact that the completed work is substantially in accordance with the plans and change orders on file with the commission.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)  
 Description: Failed to maintain a record of the amount of water treated each week.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)  
 Description: Failed to provide a service agreement with provisions for proper enforcement to insure that neither cross-connections nor other unacceptable plumbing practices are permitted.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(D)(ii)  
 Description: Failed to retain the results of inspections for all water storage and pressure



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PETTUS MUNICIPAL UTILITY  
DISTRICT  
RN101182053**

§  
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§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2014-1120-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 Pettus Municipal Utility District (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 located at 209 Hodges Street in Pettus, Bee County, Texas (the "Facility") that has approximately 236 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from July 7, 2014 through July 18, 2014, TCEQ staff documented that the Respondent did not submit Disinfectant Level Quarterly Operating Reports ("DLQORs") for the second quarter of 2012 through the first quarter of 2014.
3. During a record review conducted from July 7, 2014 through July 18, 2014, TCEQ staff documented that the Respondent did not collect the required lead and copper samples for the January 1, 2011 through December 31, 2013 monitoring period.
4. The Respondent received notice of the violations on July 21, 2014.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE CH. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect lead and copper tap samples at the required ten sample sites, have the samples analyzed at an approved laboratory, and submit the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1).
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 Seven Hundred Fifty-Three Dollars (\$753) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Seven Hundred Fifty-Three Dollar (\$753) administrative penalty.

## **III. ORDERING PROVISIONS**

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

1. The Respondent is assessed an administrative penalty in the amount of Seven Hundred Fifty-Three Dollars (\$753) 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: Pettus Municipal Utility District, Docket No. 2014-1120-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:
    - 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; and
    - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper tap samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.;
  - c. Within 90 days after the effective date of this Agreed Order:
    - i. 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

- ii. Begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon one compliant monitoring period.
- d. Within 285 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.i.; and
- e. Within 470 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.c.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*Pam Moring*  
\_\_\_\_\_  
For the Executive Director

3/9/15  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Pettus Municipal Utility District. I am authorized to agree to the attached Agreed Order on behalf of Pettus Municipal Utility District, 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, Pettus Municipal Utility District 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.

*Karen Kibbe*  
\_\_\_\_\_  
Signature

10/13/14  
\_\_\_\_\_  
Date

*Karen Kibbe*  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Pettus Municipal Utility District

*Board President*  
\_\_\_\_\_  
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.