

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 51018  
Douglas A. Bateman d/b/a Bateman Water Works  
RN101198778  
Docket No. 2015-1137-PWS-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions over the prior five year period for the same violations.

**Media:**

PWS

**Small Business:**

Yes

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

8810 1/2 Bateman Boulevard near Rosharon, Brazoria County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** July 15, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,375

**Total Paid to General Revenue:** \$115

**Total Due to General Revenue:** \$1,260

Payment Plan: 12 payments of \$105 each

**Compliance History Classifications:**

Person/CN – Satisfactory  
Site/RN – Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** July 6 — 17, 2015  
**Date(s) of NOV(s):** See Compliance History – 8 related NOVs  
**Date(s) of NOE(s):** July 17, 2015

**Violation Information**

1. Failed to submit a disinfectant level quarterly operating report (“DLQOR”) to the Executive Director each quarter by the tenth day of the month following the end of each quarter and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs [30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f)].
2. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory and submit the results to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples [30 TEX. ADMIN. CODE §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f)].
3. Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs to the Executive Director [30 TEX. ADMIN. CODE §§ 290.122(c)(2)(A) and (f)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. Provided public notification regarding the failure to collect lead and copper samples for the 2014 monitoring period and provided a copy of the public notification to the Executive Director;
2. Provided public notification regarding the failure to submit DLQORs to the Executive Director for the third and fourth quarters of 2013 and the first, third, and fourth quarters of 2014 and provided a copy of the public notification to the Executive Director; and
3. Submitted a DLQOR for the first quarter of 2016.

**Technical Requirements:**

1. Within 90 days:
  - a. Submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter; and
  - b. Comply 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.
2. Within 285 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.a.
3. Within 470 days submit written certification to demonstrate compliance with Technical Requirement No. 1.b.

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 51018  
Douglas A. Bateman d/b/a Bateman Water Works  
RN101198778  
Docket No. 2015-1137-PWS-E**

**Litigation Information**

**Date Petition(s) Filed:** February 11, 2016  
**Date Answer Filed:** N/A  
**Settlement Date:** June 16, 2016

**Contact Information**

**TCEQ Attorneys:** Elizabeth Carroll Harkrider, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016  
**TCEQ Regional Contact:** Bryan Eastham, Houston Regional Office, (713) 767-3500  
**Respondent Contact:** Douglas Bateman, 8911 Bateman Boulevard, Rosharon, Texas 77583  
**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	20-Jul-2015			
	<b>PCW</b>	27-Apr-2016	<b>Screening</b>	23-Jul-2015	<b>EPA Due</b> 30-Sep-2015

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Douglas A. Bateman dba Bateman Water Works
<b>Reg. Ent. Ref. No.</b>	RN101198778
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	51018	<b>No. of Violations</b>	3
<b>Docket No.</b>	2015-1137-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

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

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

<b>Compliance History</b>	60.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$360
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Notes: Enhancement for eight NOV's with the same/similar 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: \$439  
 Estimated Cost of Compliance: \$861  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$960
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	43.2%	<b>Adjustment</b>	\$415
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	\$1,375
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,375
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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>	\$1,375
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**Screening Date** 23-Jul-2015

**Docket No.** 2015-1137-PWS-E

**PCW**

**Respondent** Douglas A. Bateman dba Bateman Water Works

Policy Revision 4 (April 2014)

**Case ID No.** 51018

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN101198778

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Katy Montgomery

### 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> )	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of 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%
<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)** 60%

>> **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 eight NOVs with the same/similar violations and one agreed order with a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 60%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 60%

Screening Date 23-Jul-2015

Docket No. 2015-1137-PWS-E

PCW

Respondent Douglas A. Bateman dba Bateman Water Works

Policy Revision 4 (April 2014)

Case ID No. 51018

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101198778

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.110(e)(4)(A) and (f)(3) and 290.122(c)(2)(A) and (f)

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 for the third quarter of 2014 through the first quarter of 2015 and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a DLQOR to the Executive Director for the third and fourth quarters 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%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3 273 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$150

Three 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$344

This violation Final Assessed Penalty (adjusted for limits) \$344

## Economic Benefit Worksheet

**Respondent** Douglas A. Bateman dba Bateman Water Works  
**Case ID No.** 51018  
**Reg. Ent. Reference No.** RN101198778  
**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)	\$100	6-Jul-2015	29-Feb-2016	0.65	\$0	\$4	\$4
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	6-Jul-2015	29-Feb-2016	0.65	\$1	n/a	\$1
Training/Sampling	\$100	6-Jul-2015	29-Feb-2016	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)	\$50	10-Jan-2015	29-Feb-2016	1.14	\$3	n/a	\$3

#### Notes for DELAYED costs

The record keeping system and training/sampling 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 DLQORs, calculated from the date of the record review to the estimated date of compliance.

The other delayed costs include the estimated amount to implement procedures to ensure that all necessary public notifications are provided in a timely manner, calculated from the date of the record review to the estimated date of compliance.

The other delayed costs include the estimated amount to ensure that all delinquent public notifications (\$25 per notification x two missed notifications) are provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of the earliest public notification 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]	\$66	10-Oct-2014	10-Apr-2015	1.42	\$5	\$66	\$71
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

The avoided costs include the estimated amount to prepare and submit the DLQORs (\$22 per report x three missed reports), calculated from the date the DLQOR was due for the third quarter of 2014 to the date the DLQOR was due for the first quarter of 2015.

Approx. Cost of Compliance

\$361

**TOTAL**

\$82

Screening Date 23-Jul-2015

Docket No. 2015-1137-PWS-E

PCW

Respondent Douglas A. Bateman dba Bateman Water Works

Policy Revision 4 (April 2014)

Case ID No. 51018

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101198778

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f)

Violation Description

Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed, and submit the results to the Executive Director for the 2013 and 2014 monitoring periods and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples for the 2014 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Failure to collect lead and copper samples and provide public notification could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2 730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$300

Two annual 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 w th x)

Notes

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$348

Violation Final Penalty Total \$688

This violation Final Assessed Penalty (adjusted for limits) \$688

## Economic Benefit Worksheet

**Respondent** Douglas A. Bateman dba Bateman Water Works  
**Case ID No.** 51018  
**Reg. Ent. Reference No.** RN101198778  
**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	\$100	6-Jul-2015	29-Feb-2016	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)	\$25	10-Jan-2015	29-Feb-2016	1.14	\$1	n/a	\$1

#### 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, and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

The training/sampling delayed costs associated with public notification are captured in the Economic Benefit Worksheet for Violation No. 1.

The other delayed costs include the estimated amount to ensure that all delinquent public notifications (\$25 per notification x one notification) are provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of the public notification 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-2013	31-Dec-2014	2.92	\$44	\$300	\$344
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect and have analyzed the required lead and copper samples (\$30 per sample x five required samples x two monitoring periods), calculated for the monitoring periods in which sampling was required.

Approx. Cost of Compliance	\$425	<b>TOTAL</b>	\$348
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Screening Date 23-Jul-2015

Docket No. 2015-1137-PWS-E

PCW

Respondent Douglas A. Bateman dba Bateman Water Works

Policy Revision 4 (April 2014)

Case ID No. 51018

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101198778

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a DLQOR to the Executive Director for the third quarter of 2013 through the first quarter of 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3

272 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

Three 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 w th 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 \$8

Violation Final Penalty Total \$344

This violation Final Assessed Penalty (adjusted for limits) \$344

## Economic Benefit Worksheet

**Respondent** Douglas A. Bateman dba Bateman Water Works  
**Case ID No.** 51018  
**Reg. Ent. Reference No.** RN101198778  
**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)	\$75	10-Jan-2014	29-Feb-2016	2.14	\$8	n/a	\$8

**Notes for DELAYED costs**

The training/sampling delayed costs associated with public notification are captured in the Economic Benefit Worksheet for Violation No. 1.

The other delayed costs include the estimated amount to ensure that all delinquent public notifications (\$25 per notification x three notifications) are provided to persons served by the Facility and a copy of the public notification is provided to the Executive Director, calculated from the due date of the earliest public notification to the estimated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$75

**TOTAL** \$8

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 CN600643969, RN101198778, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600643969, Bateman, Douglas A      **Classification:** SATISFACTORY      **Rating:** 40.00  
**Regulated Entity:** RN101198778, Bateman Water Works      **Classification:** SATISFACTORY      **Rating:** 40.00  
**Complexity Points:** 1      **Repeat Violator:** NO  
**CH Group:** 14 - Other  
**Location:** 8810 1/2 BATEMAN BOULEVARD NEAR ROSHARON, BRAZORIA COUNTY, TEXAS  
**TCEQ Region:** REGION 12 - HOUSTON  
**ID Number(s):** PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0200563  
**Compliance History Period:** September 01, 2009 to August 31, 2014      **Rating Year:** 2014      **Rating Date:** 09/01/2014  
**Date Compliance History Report Prepared:** July 23, 2015  
**Agency Decision Requiring Compliance History:** Enforcement  
**Component Period Selected:** July 23, 2010 to July 23, 2015  
**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: 02/23/2013      ADMINORDER 2012-1589-PWS-E (1660 Order-Agreed Order With Denial)**
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.107(e)
  - Description:** SOC MR 3Y2011 - The system failed to monitor and/or failed to report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
  - Description:** DLQOR MR 4Q2010 - The system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2010.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.106(e)
  - Description:** NO32 MR YR2011 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the annual monitoring period from 01/01/2011 to 12/31/2011.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
  - Description:** DLQOR MR 1Q2011 - The system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2011.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
  - Description:** DLQOR MR 2Q2011 - The system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the 2nd quarter of 2011.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
  - Description:** DLQOR MR 3Q2011 - The system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the 3rd quarter of 2011.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
  - Description:** DLQOR MR 4Q2011 - The system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2011.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
  - Description:** DLQOR MR 1Q2012 - The system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2012.
  - Classification:** Major
  - Citation:** 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THSC Chapter 341, SubChapter A 341.033(d)
  - Description:** Failed to collect routine distribution water samples for coliform analysis for the month of March 2012.

**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: 09/11/2014 (1265455) CN600643969**  
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 3Q2013 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 third 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 4Q2013 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 third quarter of 2013.
- 2 Date: 10/13/2014 (1265455) CN600643969**  
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 1Q2014 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 third quarter of 2014.
- 3 Date: 11/10/2014 (1265455) CN600643969**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(B)  
30 TAC Chapter 290, SubChapter F 290.117(i)(1)  
Description: LCR RD MR YR2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the annual reduced monitoring period from 01/01/2014 to 12/31/2014 within the required timeline.
- 4 Date: 01/14/2015 (1265455) CN600643969**  
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 3Q2014 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the third quarter of 2014 within the required timeline.
- 5 Date: 03/16/2015 (1265455) CN600643969**  
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: LCR RD MR PN YR2014 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 distribution lead and copper reduced monitoring and reporting violation for the annual reduced monitoring period from 01/01/2014 to 12/31/2014.
- 6 Date: 04/08/2015 (1265455) CN600643969**  
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 4Q2014 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2014 within the required timeline.
- 7 Date: 04/30/2015 (1265455) CN600643969**  
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 3Q2014 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 third quarter of 2014.
- 8 Date: 06/26/2015 (1265455) CN600643969**  
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 1Q2015 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the first quarter of 2015 within the required timeline.

**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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DOUGLAS A. BATEMAN DBA  
BATEMAN WATER WORKS;  
RN101198778**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2015-1137-PWS-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Douglas A. Bateman d/b/a Bateman Water Works ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

Respondent understands that he has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, to request an evidentiary hearing, to receive notice of an evidentiary hearing, and to appeal. By entering into this Order, Respondent agrees to waive all notice and procedural rights which might otherwise be authorized or required in this action.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon 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 8810 1/2 Bateman Boulevard near Rosharon, Brazoria County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 24 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(69).
2. During a record review commenced on July 6, 2015, an investigator documented that Respondent:
  - a. 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 for the third quarter of 2014 through the first quarter of 2015 and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs for the third and fourth quarters of 2014;

- b. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory and submit the results to the Executive Director for the 2013 and 2014 monitoring periods and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples for the 2014 monitoring period; and
  - c. Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs to the Executive Director for the third quarter of 2013 through the first quarter of 2014.
3. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility by April 5, 2016:
  - a. Provided public notification regarding the failure to collect lead and copper samples for the 2014 monitoring period and provided a copy of the public notification to the Executive Director;
  - b. Provided public notification regarding the failure to submit DLQORs to the Executive Director for the third and fourth quarters of 2013 and the first, third, and fourth quarters of 2014 and provided a copy of the public notification to the Executive Director; and
  - c. Submitted a DLQOR for the first quarter of 2016.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter and failed to provide public notification and submit a copy of the public notification to the Executive Director 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) and (f).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed collect lead and copper tap samples at the required five sample sites, have the samples analyzed at an approved laboratory and submit the results to the Executive Director and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to collect lead and copper samples, in violation of 30 TEX. ADMIN. CODE §§ 290.117(c)(2)(B) and (i)(1) and 290.122(c)(2)(A) and (f).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.122(c)(2)(A) and (f).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), TCEQ 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.

6. An administrative penalty in the amount of one thousand three hundred seventy-five dollars (\$1,375.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid one hundred fifteen dollars (\$115.00) of the penalty. The remaining amount of one thousand two hundred sixty dollars (\$1,260.00) shall be paid in twelve (12) monthly payments of one hundred five dollars (\$105.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 6 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only 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 violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Douglas A. Bateman d/b/a Bateman Water Works, Docket No. 2015-1137-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
  - a. Within 90 days after the effective date of this Order:
    - i. Submit 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. Comply 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 annual monitoring period.

- b. Within 285 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.d., to demonstrate compliance with Ordering Provision No. 2.a.i.
- c. Within 470 days after the effective date of this Order, submit written certification, in accordance with Ordering Provision No. 2.d., to demonstrate compliance with Ordering Provision No. 2.a.ii.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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."

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent 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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by 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.
5. 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 above.
6. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney

General of the State of Texas ("OAG") to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

7. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
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. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date

*C. Sweeney*  
*July 25, 2016*

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

I also understand that failure to comply with the Ordering Provisions 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

*Douglas Bateman*  
\_\_\_\_\_  
Signature - Douglas Bateman  
8911 Bateman Boulevard  
Rosharon, Texas 77583

*6/16/16*  
\_\_\_\_\_  
Date

*If mailing address has changed, please check this box and provide the new address below:*

\_\_\_\_\_