

**STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

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<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF WATER RESOURCES</b>
	)	
	)	
<b>PETERS HOLLOW WATER SYSTEM, INC.,</b>	)	
	)	
	)	
<b>RESPONDENT.</b>	)	<b>CASE NO. DWS23-0189</b>

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**DIRECTOR’S ORDER AND ASSESSMENT**

Jennifer Dodd, Director of the Division of Water Resources, states:

**PARTIES**

**I.**

Jennifer Dodd is the duly appointed Director of the Division of Water Resources (“Division”) by the Commissioner of the Department of Environment and Conservation (“Department”). The Commissioner is responsible for administering the Tennessee Safe Drinking Water Act (“Act”), Tenn. Code Ann. §§ 68-221-701 to -720.

**II.**

Peters Hollow Water System, Inc. (“Respondent”) owns, operates, and/or controls a community public water system (“System”) existing at 282 Peters Hollow Road in the vicinity of the City of Elizabethton in Carter County, Tennessee. The Public Water System Identification (PWSID) number is TN0000802. Process may be served on the Respondent through its registered agent, Buford L. Peters, at 371 Peters Hollow Road, Elizabethton, Tennessee 37643-6846.

## **JURISDICTION**

### **III.**

Whenever the Commissioner has reason to believe that a violation of the Act has occurred, is occurring, or is about to occur, the Commissioner may order corrective action be taken. Tenn. Code Ann. §§ 68-221-705 and 68-221-712. Further, the Commissioner has authority to assess civil penalties against any violator of the Act. Tenn. Code Ann. §§ 68-221-705 and 68-221-713. The Commissioner also has authority to assess damages incurred by the State resulting from the violation. Tenn. Code Ann. § 68-221-713. The Board of Water Quality, Oil, and Gas has promulgated rules governing operation of public water systems. Tenn. Comp. R. & Regs. Chapter 0400-45-01. The Commissioner may delegate to the Director any of the powers, duties, and responsibilities of the Commissioner under the Act, Tenn. Code Ann. § 68-221-705(12), and has delegated such authority to the Director of the Division.

### **IV.**

The Respondent is a “person” under the Act. Tenn. Code Ann. § 68-221-703(17). The Respondent is a “supplier of water” under the Act, because it owns, operates, and/or controls a “public water system.” Tenn. Code Ann. §§ 68-221-703(22) and 68-221-703(19). The System is a “community water system.” Tenn. Comp. R. & Regs. 0400-45-01-.04(11).

## **FACTS**

### **V.**

The Respondent obtains its water from two wells that are classified as not under the direct influence of surface water, commonly referred to as “true groundwater.” The Respondent serves 85 connections and a population of approximately 201 persons.

## VI.

Between November of 2020 and January of 2024, the Division performed multiple files reviews of the Respondent's system. During these file reviews, the following violations were discovered:

Within the year 2020:

- The Respondent sampled for the disinfection byproducts total trihalomethanes (TTHM) and haloacetic acids 5 (HAA5) on September 14, 2020, instead of the week of August 19, 2020, as required in the Division-approved monitoring plan. The Division notified the Respondent of the violation in a letter dated November 23, 2020.
- The Respondent failed to perform a Tier 3 public notice for failure to monitor for TTHM and HAA5 the week of August 19, 2020, in accordance with the Division-approved monitoring plan. The Division notified the Respondent of the violation in a letter dated February 11, 2022.

Within the year 2022:

- The Respondent did not submit an accurate calendar year 2021 Consumer Confidence Report (CCR). The Respondent failed to report the violation for failure to provide public notice for a stage 2 disinfection byproduct monitoring violation in the third quarter of 2021 and left blanks in the CCR which should have contained internet links for source water assessments, lead in drinking water, and disposal of medicines. The Respondent did not submit a mail receipt of delivery to customers for certification of distribution of the CCR or describe good faith measures of providing the CCR to customers who did not receive water bills required by

October 1, 2022. The Division notified the Respondent of the violations in a letter dated November 28, 2022.

Within the year 2023:

- The Respondent failed to monitor for the secondary contaminants color and odor by the required date of June 4, 2023. The Division notified the Respondent of the violations in a letter dated October 16, 2023.
- The Respondent did not submit the calendar year 2022 CCR by July 1, 2023. In addition, the Respondent did not include a mail receipt of delivery to customers for proof of timely delivery and did not describe good faith measures of providing the CCR to customers who did not receive water bills. The Division notified the Respondent of the failure to submit the CCR by July 1, 2023 in a letter dated August 14, 2023. The Division notified the Respondent of the failure to submit the mail receipt of delivery and good faith measures for distribution by October 24, 2023.
- Division personnel performed a file review and determined that the Respondent failed to monitor for radionuclides during the required calendar year 2023 time period. The Division notified the Respondent of the violations in a letter dated February 1, 2024.

## **VII.**

The Division incurred \$12.40 in damages while investigating these violations.

## VIOLATIONS

### VIII.

By failing to perform disinfection byproduct monitoring for TTHM and HAA5 in accordance with the System's Division-approved plan, the Respondent violated Rule 0400-45-01-.38(3), which states, in pertinent part:

- (3) LRAA monitoring plan.
  - (a) 1. You must develop and implement a monitoring plan to be kept on file for Department and public review. The monitoring plan must contain the elements in subpart (i) through (iv) of this part and be complete no later than the date you conduct your initial monitoring under this rule.
    - (i) Monitoring locations;
    - (ii) Monitoring dates;
    - (iii) Compliance calculation procedures; and
    - (iv) Monitoring plans for any other systems in the combined distribution system if the Department has reduced monitoring requirements under the State authority in 40 CFR 142.16(m).

### IX.

The Respondent failed to perform the Tier 3 public notice for the failure to monitor for TTHM and HAA5 the scheduled week of August 19, 2020, which is a violation of Rule 0400-45-01-.19(4), which states, in pertinent part:

- (4) Tier 3 Public Notice—Form, manner, and frequency of notice.
  - (a) Which violations or situations require a Tier 3 public notice? Table 0400-45-01-.19(4) lists the violation categories and other situations requiring a Tier 3 public notice.

Table 0400-45-01-.19(4)  
Violation Categories and Other Situations Requiring a Tier 3 Public Notice

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- 1. Monitoring violations for the primary drinking water contaminants, except where a Tier 1 notice is required under subparagraph (2)(a) of this rule or where the department determines that a Tier 2 notice is required[.]

**X.**

By failing to include System violations in the calendar year 2021 CCR, the Respondent violated Rule 0400-45-01-.35(3)(f), which states:

- (f) Compliance with NPDWR. In addition to the requirements of part (d)7. of this paragraph, the report must note any violation that occurred during the year covered by the report of a requirement listed in parts 1 through 7 of this subparagraph, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

**XI.**

By failing to monitor for secondary contaminants during calendar year 2023 in accordance with the Division-approved monitoring schedule, the Respondent violated Rule 0400-45-01-.12, which states, in pertinent part:

- (1) The following maximum contaminant levels are established to provide a water that is aesthetically pleasing to the consumer. These standards will apply to all community water systems and to those non-community water systems as may be deemed necessary by the Department. Monitoring for these contaminants will be set in the Monitoring Program for each system, but in no event less than once every year for a surface and surface/ground supply and once every three years for a ground water supply.

Contaminant	Milligrams per Liter (unless otherwise indicated)
(a) Chloride	250
(b) Color	15 (Color Units)
(c) Copper	1
(d) MBAS (Methyl Blue Active Substance)	0.5
(e) Iron	0.3
(f) Manganese	0.05
(g) Odor	3 (Threshold Odor Number)
(h) pH	6.5-8.5
(i) Sulfate	250
(j) TDS (Total Dissolved Solids)	500
(k) Zinc	5
(l) Fluoride	2
(m) Aluminum	0.2

(n) Silver

0.1

## **XII.**

By failing to monitor for radionuclides during calendar year 2023 in accordance with the Division-approved monitoring schedule, the Respondent violated Rule 0400-45-01-.11(4)(a)3., which states:

3. Reduced monitoring: The Department may allow community water systems to reduce the future frequency of monitoring from once every three years to once every six or nine years at each sampling point, based on the following criteria:
  - (i) If the average of the initial monitoring results for each contaminant (i.e., gross alpha particle activity, uranium, radium-226, or radium-228) is below the detection limit specified in this rule, the system must collect and analyze for that contaminant using at least one sample at that sampling point every nine years.

## **XIII.**

By failing to submit the calendar year 2022 CCR by July 1, 2023, the Respondent violated Rule 0400-45-01-.35(2)(b), which states:

- (b) Each existing community water system must deliver its first report by October 19, 1999, its second report by July 1, 2000, and subsequent reports by July 1 annually thereafter. The first report must contain data collected during, or prior to, calendar year 1998 as prescribed in paragraph (3) of this rule. Each report thereafter must contain data collected during, or prior to, the previous calendar year.

## **XIV.**

By failing to include proof of delivery of the calendar year 2022 CCR and good faith effort to reach customers not receiving a water bill prior to October 1, 2023, the Respondent violated Rule 0400-45-01-.35(5)(c) and Rule 0400-45-01-.35(5)(b), which state:

Rule 0400-45-01-.35(5)(c), states:

- (c) No later than the date the system is required to distribute the report to its customers, each community water system must mail a copy of the report to the Department, followed within 3 months by a certification that the report has been distributed to

customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Department.

Rule 0400-45-01-.35(5)(b) states:

- (b) The system shall make a good faith effort to reach consumers who do not get water bills, using means recommended by the Department. EPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system such as: posting the reports on the Internet; mailing to postal patrons in metropolitan areas; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community organizations.

**ORDER and ASSESSMENT**

**XV.**

Pursuant to the Act, Tenn. Code Ann. §§ 68-221-705 and -712, the Respondent is issued the following Order and Assessment (“Order”). This case number, DWS23-0189, should be written on all correspondence concerning this matter. All documentation and submittals relating to compliance schedule items should be sent electronically to [DWRWater.Compliance@tn.gov](mailto:DWRWater.Compliance@tn.gov) or in duplicate to both addresses below:

Dane Cutshaw, Manager  
Johnson City Environmental Field Office  
Division of Water Resources  
2305 Silverdale Drive  
Johnson City, Tennessee 37601

AND

Jessica Murphy, Manager  
Enforcement and Compliance Unit  
Division of Water Resources  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Ave., 11<sup>th</sup> Floor  
Nashville, Tennessee 37243



All payments shall be submitted to:

Treasurer, State of Tennessee  
Division of Fiscal Services, Consolidated Fees  
TN Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower,  
312 Rosa L. Parks Ave., 10th Floor  
Nashville, Tennessee 37243

- (1) **The Respondent shall pay \$12.40 in damages to the Division on or before the thirty-first day after receipt of this Order.**
- (2) The Respondent is assessed a total civil penalty of \$1,500.00. **The Respondent shall pay \$300.00, which is the upfront portion of the total civil penalty, on or before the thirty-first day after receipt of this Order.**
- (3) The Respondent shall perform all public notices in a timely manner. The Respondent shall pay \$150.00 for each failure to perform a Tier 1 public notice, \$100.00 for each failure to perform a Tier 2 public notice, and \$50.00 for each failure to perform a Tier 3 public notice, not to exceed \$300.00.
- (4) The Respondent shall pay a penalty of \$150.00, not to exceed \$600.00, for each failure to perform the chemical monitoring as required in the Division-approved chemical schedule.
- (5) The Respondent shall timely publish to its customers and submit to the Division accurate CCRs on or before July 1 of each year and provide certification of distribution on or before October 1 of each year this Order is in effect. The Respondent shall pay \$100.00 for the failure timely submit and distribute the CCR to include required information and for the failure to timely submit the certification of distribution, not to exceed \$300.00.

The Director may, for good cause shown, extend the compliance dates contained within this Order and Assessment. To be eligible for this time extension, the Respondent shall submit a written request to be received in advance of the compliance date. The written request must include sufficient detail to justify such an extension and include at a minimum the anticipated length of the delay, the precise cause or causes of the delay, and all preventive measures taken to minimize the delay. Any such extension by the Director will be in writing. Should the Respondent fail to meet the requirement by the extended date, an associated civil penalty shall become due 30 days thereafter. Failure to comply with any of the requirements of this Order and Assessment could lead to further enforcement actions, which may include additional civil penalties, assessment of damages, and/or recovery of costs.

This Order and Assessment shall be considered closed no later than two years after the Order becomes effective, provided all requirements of the Order and Assessment have been met, any outstanding penalties have been paid, and the Respondent is in substantial compliance with the Act.

### **RESERVATION OF RIGHTS**

In issuing this Order and Assessment, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including,

but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

### **NOTICE OF RIGHTS**

The Respondent may appeal this Order. Tenn. Code Ann. §§ 68-221-712 and 68-221-713. To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Commissioner within 30 days of the date the Respondent received this Order and Assessment, or this Order and Assessment will become final.


If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 68-221-714; Tenn. Code Ann. § 4-5-301 to -326 (the Uniform Administrative Procedures Act); Tenn. Comp. R. & Regs. 1360-04-01 (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. No one may represent another person in a contested case proceeding unless they are an attorney licensed to practice law in Tennessee. Governments and artificial persons (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny the Order. Furthermore, the ALJ on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses

associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review must be directed to the Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 2nd Floor, Nashville, Tennessee 37243. An appeal may also be filed by sending the petition to the following email address: [TDEC.Appeals@tn.gov](mailto:TDEC.Appeals@tn.gov). Attorneys should contact the undersigned counsel of record. **The case number, DWS23-0189, should be written on all correspondence regarding this matter.**

Issued by the Director of the Division of Water Resources, Department of Environment and Conservation, on the 15th day of April, 2024.

  
Jennifer Dodd (Apr 15, 2024 12:28 CDT)

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Jennifer Dodd  
Director, Division of Water Resources  
Department of Environment and Conservation

Reviewed by:



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