



State of Louisiana
Louisiana Department of Health
Office of Public Health

January 30, 2020

The Honorable Fred H. Mills, Jr., Chairman
Senate Health and Welfare Committee
P.O. Box 94183, Capitol Station
Baton Rouge, LA 70804

Chairman
House Health and Welfare Committee
P.O. Box 94062, Capitol Station
Baton Rouge, LA 70804

RE: Act 263 and House Resolution 156 Final Report

Dear Chairman Mills and House Health and Welfare Chairman:

The Louisiana Department of Health (LDH) submits the enclosed report regarding the collaborative effort to study and evaluate the conditions of drinking water systems throughout the State of Louisiana.

Act 263 has been an opportunity to bring broader attention to the declining public drinking water infrastructure in the state. In 2019, there were over 1,670 Boil Advisories issued statewide mainly due to water line breaks, repairs and/or equipment failure. The American Society of Civil Engineers' 2017 Report Card for Louisiana's infrastructure rated the Louisiana drinking water systems with a **D-**.

Act 263 of 2017 Regular Legislative Session tasked LDH to evaluate the issues and conditions of drinking water treatment and distribution through the evaluation of sanitary survey results for each water utility system by 2020. LDH was tasked to submit annual interim progress reports until final report submission in 2020. The ultimate goal was to develop recommendations collaboratively with stakeholders, technical experts, water utility system owners, operators, community members and legislators from areas with known public water quality issues.

Sanitary surveys are conducted per federal guidelines which require a thorough on-site inspection and audit of the management, operations, and physical condition of the public drinking water system. These inspections are performed every three years at a community water system (municipalities, rural districts, subdivisions, etc.) and every five years at a non-community water system (schools, restaurants, businesses, etc.). Additionally, surveys may be performed at an increased frequency due to excessive complaints, compliance issues and/or enforcement procedures. All findings from the inspection are documented and categorized as: 1) a significant deficiency, 2) a deficiency, or 3) a recommendation. The federal requirements define a significant deficiency as a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that is causing or has the potential to

cause contamination of the drinking water system. In accordance with the Administrative Procedures Act, LDH adopted three new significant deficiencies and amended one existing significant deficiency in 2018 as approved by the Water Committee. The additional/amended significant deficiencies became effective August 1, 2018 and are included in this report (See Appendix A for the significant deficiencies).

Year 3 Report:

Sanitary Survey Summary: In 2019, 729 surveys were conducted by LDH statewide. The following seven significant deficiencies account for the preponderance of citations to Public Water Systems (PWS).

Deficiency Summary:

Pathway for Contamination/Water Source – 267 citations
Cross Connection Control/Backflow Protection – 195 citations
Maintenance or Repair – 94 citations
Pathway for Contamination/Water Storage – 87 citations
Groundwater Source Backup/Redundancy – 83 citations
Security – 79 citations
Standby Power – 58 citations

Year 2 Report:

Sanitary Survey Summary: In 2018, 493 surveys were conducted by LDH statewide. The following five significant deficiencies account for the preponderance of citations to Public Water Systems (PWS).

Deficiency Summary:

Pathway for Contamination / Water Source – 249 citations
Cross Connection Control/ Backflow Protection – 139 citations
Maintenance or Repair – 77 citations
Security – 65 citations
Sample Tap – 64 citations

Year 1 Report:

Sanitary Survey Summary: In 2017, 435 surveys were conducted by LDH statewide. The following four significant deficiencies account for the preponderance of citations to Public Water Systems (PWS).

Deficiency Summary:

Pathway for Contamination – 132 citations
Maintenance or Repair – 57 citations
Cross Connection Control/ Backflow Protection – 61 citations
Security – 49 citations

A full listing of the significant deficiencies, number of citations and the number of public water systems cited for each can be found in detail in Appendix A of this report.

Final Conclusions:

After careful analysis of the deficiencies found over three years of sanitary surveys, along with the collaborative efforts and discussions with stakeholders, water system personnel, legislators and the public, several conclusions have been made regarding the state of drinking water infrastructure in Louisiana.

1. Deficiencies and Water Quality:

The deficiencies found during on-site inspections are not solely indicative of whether the water is safe to drink. Drinking water systems are complex, requiring multiple factors to review and monitor. Sanitary surveys provide a reference point and historical record over time to track the construction, modification, maintenance, and mitigation measures taken by the water system to maintain aging infrastructure. An older system may have been cited deficiencies for repairs and can still produce safe drinking water if the stage of the repair(s) has not yet eroded the integrity of the infrastructure. Alternatively, water systems comprised of state-of-the-art technology can produce water that does not meet all federal and state drinking water regulations. The daily operations, maintenance, and management of a water system are all vital to the success of a drinking water system.

The routine water quality testing results are equally important in determining the safety of the water. The frequency for testing is dependent on the type of contaminant: bacteriological testing is conducted monthly and indicates whether the water has been contaminated and is unsafe to drink. Chemical testing is conducted every three years at each public water supply well, and annually at surface water treatment systems to determine any potential chemical contamination. Certainly, poor infrastructure could pose a risk for potential contamination, but public drinking water systems use treatment processes to maintain compliant drinking water.

2. Fiscal Health

The fiscal health of a water system is a crucial factor in the exponential decline of drinking water infrastructure. In the last two years, several systems have been placed under the management of a Fiscal Administrator appointed by representatives of the legislature and judicial system. These fiscal administrators are tasked with rehabilitating the finances of towns that are on the brink of financial collapse. In most of these towns and municipalities, the failure to remain financially sound has greatly impacted the operations and maintenance of the vital drinking water systems in the community. In the majority of cases, the rate charged to customers is grossly under the amount required to properly run a water system as well as maintain a reserve fund for maintenance and infrastructure needs. As documented in the Legislative Auditor's Report of March 2017 on Water Rates in Louisiana, funds collected by communities fall short of the operating costs to maintain the water system. As a regulator, LDH does not have the executive authority to ensure that community/taxpayer revenues generated by the jurisdiction (town, city, or municipality) from water bills are applied to the maintenance and operation of the water system. Furthermore, drinking water systems that have a small number of customers do not have the ability to generate enough revenue to manage and maintain the water system. In these cases, the best option is for small systems to consolidate with neighboring systems to create a large customer base, establish an appropriate water rate, and increase the likelihood to hire and retain qualified personnel.

3. Enforcement

For systems that fall short of meeting federal and/or state regulations, LDH takes the necessary enforcement actions to attempt to move water systems into compliance. The enforcement process is outlined in Appendix B of the report. In short, a Notice of Violation denoting all deficiencies and/or recommendations is provided to the water system with a 90-day correction period. If the system fails to correct the deficiencies, an Administrative Order (AO) is sent to the system. Failure to comply with the AO results in penalties. In 2019, 35 Administrative Orders were issued and five Imposition of Penalties in the amount of \$327,901.

It is important to note there are limitations to the enforcement procedures. As a regulator, LDH has authority to impose penalties; however, LDH may not be able to collect penalties due to the water systems lack of funds. In fact, penalties may indicate a systemic problem of a water system with a demographically poorer tax-payer base that lacks funds to invest in other infrastructure problems, let alone water infrastructure. The (limited and temporary) solution is to place the water utility in receivership, in which a receiver is appointed by the court petitioned by LDH to operate the water utility. Often times, receivership is not an option as the community funds available are insufficient to attract a managing entity willing to take on a failing water system.

Responsive Actions and Recommendations:

1. LDH Sample Collection and Monitoring:

Over the last three years, LDH has re-instated the sample collection program that was cut from the state budget in 2012. This service provides water quality testing for all water systems on a statewide basis and has dramatically reduced, if not eliminated monitoring violations for water systems in the State. Furthermore, this reduction in monitoring violations also provides a *known* water quality for each system.

2. Collaborative Efforts:

In response to the rise of drinking water infrastructure problems in Louisiana, the Governor's office launched a collaborative initiative called the Rural Water Infrastructure Committee (RWIC). This committee is comprised of representatives from funding and regulatory agencies and provides a collaborative effort to get failing systems into compliance. RWIC representatives visit failing water systems across the State in hopes of providing strategic solutions to water system problems. In the 2019 Regular Session, Act 126 was passed by Senator Thompson to codify the RWIC and the membership.

3. Fixing Water First

Beginning in 2019, LDH began a consolidation program under the Drinking Water Revolving Loan Fund (DWRLF). This program offers 100% principal forgiveness to systems that consolidate failing water systems that are no longer sustainable and have enforcement problems. The amount of funding set aside for these projects is approximately \$4.5M. Currently, there are several projects in line for funding to consolidate problematic systems and provide customers with better water quality from a long term sustainable water system.

Some further recommended considerations include legislation which will *require* consolidation when systems are no longer sustainable and legislation that would require all

water revenues collected from customers to be utilized strictly for drinking water operations, maintenance, and infrastructure costs.

Additionally, it is important for the State to continue to support the funding of Fiscal Administrators for entities that have poor fiscal performance, which is directly correlated to the proper maintenance and operation of water systems. Fiscal Administrators also help to ensure that water systems have proper rates in place that will adequately address current and future infrastructure upgrades.

Even with the above efforts, the problems that exist in the drinking water systems are systemic in Louisiana and will require innovative solutions. LDH is committed to the continuing efforts to bring drinking water systems into compliance.

Should you have any questions regarding the information contained in this correspondence, please do not hesitate to contact my office at 225-342-7499. An electronic copy of this report and associated Appendices can be found at the following website:

<http://ldh.la.gov/index.cfm/page/2968>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amanda Ames", with a long, sweeping flourish extending to the right.

Amanda Ames, P.E.
LDH/OPH Chief Engineer

cc: Jimmy Guidry, M.D., State Health Officer