

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2010-0781-PWS-E RN101191708 CASE NO. 39687**  
**RESPONDENT NAME: CURTIS SHUPAK DBA VILLAGE WATER**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 3.2 miles south of Farm-to-Market Road 60 East off Park Road 57, Burleson County

**TYPE OF OPERATION:** public water system

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. Respondent owes \$4,371.99 in past-due administrative penalties (\$2,183.80 under docket no. 2009-0361-MLM-E; \$2,188.19 under docket no. 2005-1120-PWS-E).

**INTERESTED PARTIES:** No one other than the ED and Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired September 20, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400  
**TCEQ Enforcement Coordinator:** Mr. Stephen Thompson, Water Enforcement Section, MC 169, (512) 239-2558  
**TCEQ Regional Contact:** Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 751-0335  
**Respondent:** Mr. Curtis Shupak, 7575 FM 60 West, Somerville, Texas 77879  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint:</b> N/A</p> <p><b>Date of Investigation:</b> March 1, 2010</p> <p><b>Date of NOE:</b> March 1, 2010</p> <p><b>Background Facts:</b>                      The EDPRP was filed on July 2, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>                      Respondent has not yet submitted documentation to certify compliance with the technical requirements. Respondent owes \$1,482.36 in past-due fees.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a)and (c)].</li> <li>Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90260042 for Fiscal Years 2009 and 2010 [30 TEX. ADMIN. CODE § 290.51 and TEX. WATER CODE § 5.702].</li> </ol>	<p><b>Total Assessed:</b> \$1,658</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$1,658</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Compliance History Classifications:</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days:                             <ol style="list-style-type: none"> <li>Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers; and</li> <li>Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Account No. 90260042.</li> </ol> </li> <li>Within 45 days, submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 pursuant to Ordering Provision No. 1.a., above, and include a certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data.</li> <li>Within 60 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-May-2010	<b>Screening</b>	13-May-2010	<b>EPA Due</b>	30-Nov-2004
	<b>PCW</b>	26-May-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	Curtis Shupak dba Village Water		
<b>Reg. Ent. Ref. No.</b>	RN101191708		
<b>Facility/Site Region</b>	9-Waco	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39687	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-0781-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>	Stephen Thompson
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit</b>	<b>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>	76.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$456
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Notes: Enhancement is due to four Notices of Violation ("NOVs") that contain violations that are the same or similar to those contained in the current enforcement action, three dissimilar NOVs and two default orders.

<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	\$602	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$447	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,056
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	57.0%	<b>Adjustment</b>	\$602
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover avoided costs of compliance associated with Violation No. 1.

<b>Final Penalty Amount</b>	\$1,658
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$1,658
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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>	\$1,658
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**Screening Date** 13-May-2010

**Docket No.** 2010-0781-PWS-E

**PCW**

**Respondent** Curtis Shupak dba Village Water

*Policy Revision 2 (September 2002)*

**Case ID No.** 39687

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101191708

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Stephen Thompson

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 76%

**>> Repeat Violator (Subtotal 3)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement is due to four Notices of Violation ("NOVs") that contain violations that are the same or similar to those contained in the current enforcement action, three dissimilar NOVs and two default orders.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 76%

<b>Screening Date</b>	13-May-2010	<b>Docket No.</b>	2010-0781-PWS-E	<b>PCW</b>
<b>Respondent</b>	Curtis Shupak dba Village Water	Policy Revision 2 (September 2002) PCW Revision October 30, 2008		
<b>Case ID No.</b>	39687			
<b>Reg. Ent. Reference No.</b>	RN101191708			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Stephen Thompson			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)			
<b>Violation Description</b>	Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2002 through 2004 and 2006 through 2008.			
<b>Base Penalty</b>				\$1,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual			
Potential				<b>Percent</b> 0%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
		x		
				<b>Percent</b> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>				\$900
				\$100
<b>Violation Events</b>				
	Number of Violation Events	6	2192	Number of violation days
mark only one with an x	daily			<b>Violation Base Penalty</b> \$600
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual	x		
	single event			
Six annual events are recommended.				
<b>Good Faith Efforts to Comply</b>				
		0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement	
Extraordinary				
Ordinary				
N/A	x	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$600
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
<b>Estimated EB Amount</b>		\$602	<b>Violation Final Penalty Total</b> \$1,658	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$1,658

## Economic Benefit Worksheet

**Respondent** Curtis Shupak dba Village Water  
**Case ID No.** 39687  
**Reg. Ent. Reference No.** RN101191708  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$447	1-Jul-2003	1-Jul-2009	6.92	\$155	\$447	\$602
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the CCRs to the customers of the Facility (calculation: (\$0.50 x 49 connections + \$50) x 6 years), calculated for the years in which no CCRs were distributed.

Approx. Cost of Compliance \$447

**TOTAL** \$602

**Screening Date** 13-May-2010 **Docket No.** 2010-0781-PWS-E **PCW**  
**Respondent** Curtis Shupak dba Village Water *Policy Revision 2 (September 2002)*  
**Case ID No.** 39687 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101191708  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Stephen Thompson

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

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

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text"/>					
<b>Adjustment</b>					<input type="text" value="\$1,000"/>

**Violation Events**

Number of Violation Events  Number of violation days   
*mark only one with an x*  
 daily   
 weekly   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event   
**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

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

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**   
**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Curtis Shupak dba Village Water  
**Case ID No.** 39687  
**Reg. Ent. Reference No.** RN101191708  
**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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit associated with this violation.

### 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

\$0

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602212599 SHUPAK, CURTIS J Classification: Rating:  
Regulated Entity: RN101191708 VILLAGE WATER Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0260042  
Location: 3.2 MI S OF FM 60 E OFF PARK ROAD 57, BURLESON COUNTY, TX  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: May 12, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 12, 2005 to May 12, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Stephen Thompson Phone: (512) 239-2558

## Site Compliance History Components

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, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site:

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

**Effective Date: 06/15/2006**

**ADMINORDER 2005-1120-PWS-E**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect a routine monitoring sample in 01/2003.

Classification: Moderate

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

Description: Failure to post a PN for not collecting a routine monitoring sample in 01/2003.

Classification: Moderate

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

Description: Failure to collect any repeat samples in 09/2003 following a coliform found result.

Classification: Moderate

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

Description: Failure to post a PN for not collecting any repeat samples in 09/2003 following a coliform found result.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect all of the 5 distribution samples in 10/2003 following a coliform found month.

Classification: Moderate

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

Description: Failure to post a PN for not collecting all of the 5 distribution samples in 10/2003 following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect a routine monitoring sample in 11/2003.

Classification: Moderate

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

Description: Failure to post a PN for not collecting a routine monitoring sample in 11/2003.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect a routine monitoring sample in 12/2003.

Classification: Moderate

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

Description: Failure to post a PN for not collecting a routine monitoring sample in 12/2003.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(iii)

5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect a routine monitoring sample in 02/2004.

Classification: Moderate

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

Description: Failure to post a PN for not collecting a routine monitoring sample in 02/2004.

**Effective Date: 03/28/2010**

**ADMINORDER 2009-0361-MLM-E**

Classification: Minor

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

Description: Failed to equip the Facility's pressure tank with a device to readily determine air-water-volume.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)

Description: Failed to provide a well capacity of 1.5 gallons per minute ("gpm")

Classification: Minor

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

Description: Failed to make available for review the results of microbiological analyses.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failed to conduct an annual inspection of the Facility's pressure tank as well as an inspection of the interior of the pressure tank within the prior five years.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)  
Description: Failed to complete customer service inspection certificates prior to providing continuous water service to new construction, or any existing service wither when the water purveyor has reason to believe that cross connections or other potential contamination hazards exist, or any material improvement, connection, or addition to the private water distribution facilities.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
Description: Failed to provide a plant operations manual and keep it up to date for operator review and reference.

Classification: Minor  
Citation: 2A TWC Chapter 5, SubChapter A 5.702  
30 TAC Chapter 290, SubChapter D 290.51(a)(6)  
Description: Failed to pay all annual and late Public Health Service fees for TCEQ Financial Administration Account No. 90260042 for Fiscal Years 2001 through 2008 to the TCEQ in a timely manner.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description: Failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1.

Classification: Minor  
Citation: 30 TAC Chapter 288, SubChapter B 288.20(a)  
30 TAC Chapter 288, SubChapter C 288.30(5)(B)  
Description: Failed to submit and adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier.

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

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

1	06/23/2005	(395720)
2	02/21/2006	(797459)
3	02/20/2008	(797463)
4	06/25/2008	(671672)
5	08/18/2008	(689617)
6	10/10/2008	(703810)
7	01/14/2009	(797819)
8	02/26/2009	(724552)
9	04/24/2009	(739895)
10	11/03/2009	(797928)
11	04/28/2010	(799022)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

**Date: 02/21/2006 (797459) CN602212599**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2004 to its bill-paying customers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2004 CCR year to the TCEQ.

**Date: 02/20/2008 (797463) CN602212599**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2006 to its bill-paying customers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)

Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2006 CCR year to the TCEQ.

**Date: 06/20/2008 (671672) CN602212599**

Self Report? NO Classification: Minor

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

Description: Failed to equip the Facility's pressure tank with a device to readily determine air-water-volume.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)

Description: Failed to provide a well capacity of 1.5 gallons per minute ("gpm")

Self Report? NO Classification: Minor

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

Description: Failed to make available for review the results of microbiological analyses.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)

Description: Failed to conduct an annual inspection of the Facility's pressure tank as well as an inspection of the interior of the pressure tank within the prior five years.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failure to inspect the pressure tank annually.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failed to complete customer service inspection certificates prior to providing continuous water service to new construction, or any existing service wither

when the water purveyor has reason to believe that cross connections or other potential contamination hazards exist, or any material improvement, connection, or addition to the private water distribution facilities.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
Description: Failed to provide a plant operations manual and keep it up to date for operator review and reference.  
**Date: 01/14/2009 (797819) CN602212599**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)  
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2007 to its bill-paying customers.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)  
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2007 CCR year to the TCEQ.  
**Date: 03/05/2009 (737876) CN602212599**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
Description: Failure to maintain the minimum required disinfectant residual within the distribution system.  
**Date: 09/28/2009 (777798) CN602212599**  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)  
Description: Failure to maintain a residual disinfectant concentration at a minimum level of 0.2 mg/l free chlorine or 0.5 mg/l total chlorine within the distribution system.  
**Date: 11/03/2009 (797928) CN602212599**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
30 TAC Chapter 290, SubChapter H 290.274(a)  
Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)  
Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CURTIS SHUPAK DBA  
VILLAGE WATER;  
RN101191708**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2010-0781-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Curtis Shupak DBA Village Water ("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 3.2 miles south of Farm-to-Market Road 60 East off Park Road 57 in Burleson County, Texas (the "Facility")
2. The Facility has 48 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
3. During an investigation conducted on March 1, 2010, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data. Specifically, Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2002 through 2004 and 2006 through 2008; and
  - b. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90260042 for Fiscal Years 2009 and 2010.
4. Respondent received notice of the violations on or about March 6, 2010.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain

Actions of Curtis Shupack DBA Village Water" (the "EDPRP") in the TCEQ Chief Clerk's office on July 2, 2010.

6. By letter dated July 2, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### **CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 90260042 for Fiscal Years 2009 and 2010, in violation of 30 TEX. ADMIN. CODE § 290.51 and TEX. WATER CODE § 5.702.
4. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of 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.
7. An administrative penalty in the amount of one thousand six hundred fifty-eight dollars (\$1,658.00) 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.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

## ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of one thousand six hundred fifty-eight dollars (\$1,658.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Curtis Shupak DBA Village Water; Docket No. 2010-0781-PWS-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2009 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274; and
    - ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Account No. 90260042. The payment shall be sent with the notation "Curtis Shupak DBA Village Water, Financial Administration Account No. 90260042" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Order, Respondent shall submit to the Commission a copy of the CCR provided to customers of the Facility for the year 2009 pursuant to Ordering Provision No. 3.a.i., above, and shall include a certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

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

- c. Within 60 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b. 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

Frank Burleson, Water Section Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF RUDY CALDERON**

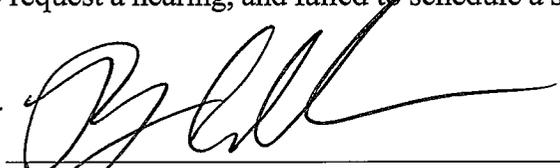
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Rudy Calderon. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Curtis Shupak DBA Village Water” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 2, 2010.

The EDPRP was mailed to Respondent at his last known address on July 2, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”



Rudy Calderon, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 2nd day of August, A.D., 2010.

