

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0361-MLM-E TCEQ ID: RN101191708 CASE NO.: 37295
RESPONDENT NAME: CURTIS J. SHUPAK DBA VILLAGE WATER

ORDER TYPE:		
<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	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" 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 checked="" type="checkbox"/> WATER RIGHTS	<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 supply

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints relating to this enforcement action. Two complaints were received during the pendency of this action (on February 13, 2009 and September 21, 2009), alleging water outages, low pressure, sulfur smell, and salty taste. Both complaints have been resolved, and there is no record of additional pending enforcement actions regarding this facility location.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired February 15, 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) 239-0019

TCEQ Enforcement Coordinator: Mr. Stephen Thompson, P.E., Water Enforcement Section, MC 169, (512) 239-2558

TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-14, (254) 761-3001

Respondent: Mr. Curtis Shupak, Owner, Village Water, 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>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 22, 2009</p> <p>Date of NOE Relating to this Case: April 9, 2009</p> <p>Background Facts: The EDPRP was filed on July 10, 2009. According to the return receipt "green card," the Respondent received notice of the EDPRP on July 14, 2009. The EDFARP was filed on August 31, 2009. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed"; the first class mail has not been returned. The EDSARP was filed on November 17, 2009. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed"; the first class mail has not been returned. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent is not yet in compliance. The Respondent owes \$1,482.36 in past-due fees.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to equip the Facility's pressure tank with a device to readily determine air-water-volume [30 TEX. ADMIN. CODE § 290.43(d)(3)]. Failed to provide a well capacity of 1.5 gallons per minute ("gpm") [30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i)]. Failed to make available for review the results of microbiological analyses [30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(i)]. Failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)]. 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 [30 TEX. ADMIN. CODE § 290.46(m)(1)(B)]. 	<p>Total Assessed: \$2,141</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$2,141</p> <p>This is a Default Order. The 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>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Begin completing customer service inspection certificates prior to providing continuous water service to new construction or any existing service where cross connections or other potential contamination hazards exist; Equip the pressure tank with a device to readily determine air-water-volume; Compile and make available for review during inspections all results of microbiological analyses; Compile and maintain a plant operations manual; and Pay all outstanding fees, including any associated penalties and interest. Within 45 days submit written certification demonstrating compliance with Ordering Provision No. 1. Within 60 days: <ol style="list-style-type: none"> Conduct an annual inspection of the pressure tank as well as an inspection of the interior of the pressure tank; Obtain a sanitary control easement covering land within 150 feet of Well No. 1; and Develop and properly maintain a drought contingency plan. Within 75 days, submit written certification demonstrating compliance with Ordering Provision No. 3. Within 120 days provide a well capacity of 1.5 gpm. Within 135 days, submit written certification demonstrating compliance with Ordering Provision No. 5.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to complete customer service inspection certificates prior to providing continuous water service to new construction, or any existing service either when the water purveyor has reason to believe that cross connections or other potential contamination hazards exist, or any material improvement, correction, or addition to the private water distribution facilities [30 TEX. ADMIN. CODE § 290.46(j)].</p> <p>7. Failed to provide a plant operations manual and keep it up to date for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].</p> <p>8. Failed to pay all annual and late Public Health Service fees to the TCEQ in a timely manner for TCEQ Financial Administration Account No. 90260042 for Fiscal Years 2001 through 2008 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].</p> <p>9. Failed to submit and adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier [30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Mar-2009			
	PCW	21-May-2009	Screening	13-Mar-2009	EPA Due

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

CASE INFORMATION					
Enf./Case ID No.	37295	No. of Violations	8		
Docket No.	2009-0361-MLM-E	Order Type	1660		
Media Program(s)	Public Water Supply	Government/Non-Profit	No		
Multi-Media	Water Rights	Enf. Coordinator	Stephen Thompson		
		EC's Team	Enforcement Team 2		
Admin. Penalty \$ Limit	Minimum	\$50	Maximum	\$1,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$960
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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.

Compliance History	34.0% Enhancement	Subtotals 2, 3, & 7	\$326
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Notes: Penalty enhancement is due to one NOV that contains violations that are the same as those contained in the current enforcement action, two dissimilar NOV's and one default order.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$780
 Approx. Cost of Compliance: \$5,645
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,286
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OTHER FACTORS AS JUSTICE MAY REQUIRE	12.8%	Adjustment	\$165
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Penalty enhancement recommended for the recovery of avoided costs of compliance.

Final Penalty Amount	\$1,451
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,486
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$1,486
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Screening Date 13-Mar-2009

Docket No. 2009-0361-MLM-E

PCW

Respondent Curtis J. Shupak dba Village Water

Policy Revision 2 (September 2002)

Case ID No. 37295

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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	1	25%
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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 34%

>> 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

Penalty enhancement is due to one NOV that contains violations that are the same as those contained in the current enforcement action, two dissimilar NOVs and one default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 290.43(d)(3)
Violation Description Failed to equip the Facility's pressure tank with a device to readily determine air-water-volume.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to equip the pressure tank with a sanitary means to determine air-water-volume could lead to incorrect water calculations, resulting in the tank becoming water-logged due to insufficient air-water volume thereby exposing customers of the water supply to significant amounts of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1 50 Number of violation days

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

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the record review, January 22, 2009, to the date of screening, March 13, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDFRP/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 \$100

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

Estimated EB Amount \$10 **Violation Final Penalty Total** \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

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
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No commas or \$

Delayed Costs

Equipment	\$100	22-May-2008	1-Oct-2009	1.36	\$0	\$9	\$10
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 The delayed costs include the amount to equip the pressure tank with a device to determine the air-water-volume calculated from the date of the investigation originally documenting the violation 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 \$100

TOTAL \$10

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(A)(i)
Violation Description Failed to provide a well capacity of 1.5 gallons per minute ("gpm"). Specifically, at the time of the record review, it was documented that the Facility has 48 connections and must provide a minimum well capacity of 72 gpm. The well only provided 36 gpm, which is a 50% deficiency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to provide adequate well capacity may result in water shortages or outages which could expose customers of the water supply to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900
\$100

Violation Events

Number of Violation Events 1 50 Number of violation days
 mark only one with an x
 daily
 weekly
 monthly
 quarterly x
 semiannual
 annual
 single event

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the record review, January 22, 2009, to the date of screening, March 13, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	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 \$100

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

Estimated EB Amount \$565 **Violation Final Penalty Total** \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

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	\$5,000	22-May-2008	1-Jan-2010	1.61	\$27	\$538	\$565
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 The delayed costs include the amount to increase the Facility's well capacity an additional 36 gpm or obtain an alternate source of water to supplement the well production, calculated from the date of the investigation originally documenting the violation 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	\$5,000	TOTAL	\$565
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Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(D)(i)
Violation Description Failed to make available for review the results of microbiological analyses. Specifically, at the time of the record review, it was documented that a copy of the September 2007 coliform sample laboratory analysis was not available for review.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Less than 10% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events: 1 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	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 \$10

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1 Violation Final Penalty Total \$15

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water
Case ID No. 37295
Reg. Ent. Reference No. RN101191708
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	\$20	22-May-2008	1-Oct-2009	1.36	\$1	n/a	\$1
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
 The delayed costs include the amount to obtain and maintain a copy of the Facility's bacteriological analysis results for September 2007, calculated from the date of the investigation originally documenting the violation 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 \$20

TOTAL \$1

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
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Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F)
Violation Description Failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	x	
				5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to secure a sanitary control easement could expose customers of the water supply to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	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 \$50

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

Estimated EB Amount \$20 **Violation Final Penalty Total** \$76

This violation Final Assessed Penalty (adjusted for limits) \$76

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

Reg. Ent. Reference No. RN101191708

Media Public Water Supply

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	22-May-2008	1-Nov-2009	1.45	\$1	\$19	\$20
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 The delayed costs include the amount to secure a sanitary control easement covering all land within 150 feet of Well No. 1, calculated from the date of the investigation originally documenting the violation 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 \$200

TOTAL \$20

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)(B)
Violation 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.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Failure to perform inspections of the pressure tank could lead to the non-detection of defects which could expose customers of the water supply to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

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 \$500

Two single events are recommended, based on one event for each inspection.

Good Faith Efforts to Comply Reduction

	Before NOV	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 \$500

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

Estimated EB Amount \$165 **Violation Final Penalty Total** \$756

This violation Final Assessed Penalty (adjusted for limits) \$756

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water
Case ID No. 37295
Reg. Ent. Reference No. RN101191708
Media Public Water Supply
Violation No. 5

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	\$25	22-Jan-2008	13-Mar-2009	1.14	\$1	\$28	\$30
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	22-Jan-2003	13-Mar-2009	7.06	\$35	\$100	\$135
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the amount to perform an annual inspection of the pressure tank, as well as to inspect the interior of the pressure tank. The date required for the interior inspection is five years preceding the date of the record review originally documenting the violation. The final date is the screening date. The date required for the annual inspection is 12 months preceding the date of the record review originally documenting the violation. The final date is the screening date.

Approx. Cost of Compliance \$125

TOTAL \$165

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 290.46(j)
Violation Description Failed to complete customer service inspection certificates prior to providing continuous water service to new construction, or any existing service either when the water purveyor has reason to believe that cross connections or other potential contamination hazards exist, or any material improvement, correction, or addition to the private water distribution facilities. Specifically, at the time of the record review, it was documented that the Facility failed to complete any customer service inspections.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events: 1 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	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 \$100

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

Estimated EB Amount: \$10 Violation Final Penalty Total: \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

Reg. Ent. Reference No. RN101191708

Media Public Water Supply

Violation No. 6

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	22-May-2008	1-Oct-2009	1.36	\$0	\$9	\$10
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 The delayed costs include the amount to establish a customer service inspection program and ensure that all applicable inspections occur, calculated from the date of the investigation originally documenting the violation 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

TOTAL

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 7
Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)
Violation Description Failed to provide a plant operations manual and keep it up to date for operator review and reference.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events: 1 50 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	0.0% Reduction	
	Before NOV	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 \$100

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

Estimated EB Amount: \$10 Violation Final Penalty Total: \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

Reg. Ent. Reference No. RN101191708

Media Public Water Supply

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	22-May-2008	1-Oct-2009	1.36	\$0	\$9	\$10
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

The delayed cost includes the amount to compile a plant operations manual, calculated from the date of the investigation originally documenting the violation 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 \$100

TOTAL \$10

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Public Water Supply
Enf. Coordinator Stephen Thompson

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702
Violation 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.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Adjustment \$1,000

\$0

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 \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

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"/> (mark with x)	

Notes

Violation Subtotal \$0

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

Reg. Ent. Reference No. RN101191708

Media Public Water Supply

Violation No. 8

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

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Mar-2009			
	PCW	21-May-2009	Screening	13-Mar-2009	EPA Due

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

CASE INFORMATION			
Enf./Case ID No.	37295	No. of Violations	1
Docket No.	2009-0361-MLM-E	Order Type	1660
Media Program(s)	Water Rights	Government/Non-Profit	No
Multi-Media	Public Water Supply	Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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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.

Compliance History	31.0% Enhancement	Subtotals 2, 3, & 7	\$155
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Notes: Penalty enhancement is due to three NOV's that contain violations that are dissimilar to those contained in the current enforcement action and one default order.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$30
 Approx. Cost of Compliance: \$300
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$655
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$655
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$655
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$655
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Screening Date 13-Mar-2009

Docket No. 2009-0361-MLM-E

PCW

Respondent Curtis J. Shupak dba Village Water

Policy Revision 2 (September 2002)

Case ID No. 37295

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101191708

Media [Statute] Water Rights

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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	1	25%
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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 31%

>> 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

Penalty enhancement is due to three NOVs that contain violations that are dissimilar to those contained in the current enforcement action and one default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 31%

Screening Date 13-Mar-2009 **Docket No.** 2009-0361-MLM-E **PCW**
Respondent Curtis J. Shupak dba Village Water *Policy Revision 2 (September 2002)*
Case ID No. 37295 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101191708
Media [Statute] Water Rights
Enf. Coordinator Stephen Thompson

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 288.20(a) and 288.30(5)(B)
Violation Description Failed to submit and adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			0%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification	x			
				10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1 50 Number of violation days

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

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply **0.0%** Reduction \$0

	Before NOV	NOV to EDP/PP/ 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 \$500

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

Estimated EB Amount \$30 Violation Final Penalty Total \$655

This violation Final Assessed Penalty (adjusted for limits) \$655

Economic Benefit Worksheet

Respondent Curtis J. Shupak dba Village Water

Case ID No. 37295

Reg. Ent. Reference No. RN101191708

Media Water Rights

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$300	22-May-2008	1-Nov-2009	1.45	\$1	\$29	\$30
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

The delayed costs include the amount to draft and adopt a drought contingency plan, calculated from the date of the investigation initially documenting the violation 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 \$300

TOTAL \$30

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:	March 06, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 06, 2004 to March 06, 2009			

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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.

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	03/30/2004	(394145)
2	06/23/2005	(395720)
3	06/25/2008	(671672)
4	08/18/2008	(689617)
5	10/10/2008	(703810)
6	02/26/2009	(724552)

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

1	Date:	03/30/2004	(394145)	CN602212599
	Self Report?	NO		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.		
	Self Report?	NO		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.		
2	Date:	02/17/2005	(344655)	CN602212599
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(r)		
	Description:	Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute at each service outlet or connection.		
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.44(a)(4)		
	Description:	Failure to bury the exposed water distribution lines.		
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
	Description:	Failure to maintain distribution system lines, water storage and pressure maintenance facilities, and related appurtenances in a watertight condition and be free of excessive solids.		
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(t)		
	Description:	Failure to post a legible sign at the water plant.		
3	Date:	06/20/2008	(671672)	CN602212599
	Self Report?	NO		Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(d)(3)		
	Description:	Failure to equip the pressure tank with some sanitary means of determining the air-to-water ratio.		
	Self Report?	NO		Classification: Major
	Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)		
	Description:	Failure to provide an adequate well capacity.		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)		
Description:	Failure to inspect the interior of the pressure tank at least once every 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:	Failure to complete a customer service inspection (CSI) prior to providing continuous water service.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(4)(A)		
Description:	Failure to employ an adequately licensed water operator.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to provide a plant operations manual.		

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 J. SHUPAK DBA
VILLAGE WATER,
RN101191708**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2009-0361-MLM-E**

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5 and 11, TEX. HEALTH & SAFETY CODE ch. 341, 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 J. Shupak dba Village Water (“Mr. Shupak”).

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Shupak owns and operates a public water supply 3.2 miles south of Farm-to-Market Road 60 East off Park Road 57 in Burleson County, Texas (the “Facility”)
2. The Facility provides water for human consumption, 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 supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63). The Facility adjoins, is contiguous with, or surrounds state water as defined in TEX. WATER CODE § 11.021
3. During a record review conducted on January 22, 2009, a TCEQ Waco Regional Office investigator documented that Mr. Shupak:
 - a. Failed to equip the Facility's pressure tank with a device to readily determine air-water-volume;
 - b. Failed to provide a well capacity of 1.5 gallons per minute ("gpm"). Specifically, it was documented that the Facility has 48 connections and must provide a minimum well capacity of 72 gpm. The well only provided 36 gpm, which is a 50% deficiency;

- c. Failed to make available for review the results of microbiological analyses. Specifically, it was documented that a copy of the September 2007 coliform sample laboratory analysis was not available for review;
 - d. Failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1;
 - e. 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;
 - f. Failed to complete customer service inspection certificates prior to providing continuous water service to new construction, or any existing service either when the water purveyor has reason to believe that cross connections or other potential contamination hazards exist, or any material improvement, correction, or addition to the private water distribution facilities. Specifically, it was documented that the Facility failed to complete any customer service inspections;
 - g. Failed to provide a plant operations manual and keep it up to date for operator review and reference;
 - h. 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; and
 - i. Failed to submit and adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier.
4. Mr. Shupak received notice of the violations on or about April 14, 2009.
 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 J. Shupak dba Village Water" (the "EDPRP") in the TCEQ Chief Clerk's office on July 10, 2009.
 6. By letter dated July 10, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Shupak with notice of the EDPRP. According to the return receipt "green card", Mr. Shupak received notice of the EDPRP on July 14, 2009, as evidenced by the signature on the card.

7. The Executive Director filed the “Executive Director’s First Amended 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 J. Shupak dba Village Water” (the “EDFARP”) in the TCEQ Chief Clerk’s office on August 31, 2009.
8. By letter dated August 31, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Shupak with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Mr. Shupak received notice of the EDFARP.
9. The Executive Director filed the “Executive Director’s Second Amended 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 J. Shupak dba Village Water” (the “EDSARP”) in the TCEQ Chief Clerk’s office on November 17, 2009.
10. By letter dated November 17, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Shupak with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Mr. Shupak received notice of the EDSARP.
11. More than 20 days have elapsed since Mr. Shupak received notice of the EDPRP, EDFARP, and EDSARP provided by the Executive Director. Mr. Shupak failed to file an answer to either the EDPRP, EDFARP, or EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Shupak is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 11, TEX. HEALTH & SAFETY CODE ch. 341, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Shupak failed to equip the Facility’s pressure tank with a device to readily determine air-water-volume, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(3).
3. As evidenced by Finding of Fact No. 3.b., Mr. Shupak failed to provide a well capacity of 1.5 gpm, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(i).

4. As evidenced by Finding of Fact No. 3.c., Mr. Shupak failed to make available for review the results of microbiological analyses, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(D)(i).
5. As evidenced by Finding of Fact No. 3.d., Mr. Shupak failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
6. As evidenced by Finding of Fact No. 3.e., Mr. Shupak 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, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(B).
7. As evidenced by Finding of Fact No. 3.f., Mr. Shupak failed to complete customer service inspection certificates prior to providing continuous water service to new construction, or any existing service either when the water purveyor has reason to believe that cross connections or other potential contamination hazards exist, or any material improvement, correction, or addition to the private water distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.46(j).
8. As evidenced by Finding of Fact No. 3.g., Mr. Shupak failed to provide a plant operations manual and keep it up to date for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
9. As evidenced by Finding of Fact No. 3.h., Mr. Shupak 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, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
10. As evidenced by Finding of Fact No. 3.i., Mr. Shupak failed to submit and adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B).
11. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Shupak with proper notice of the EDPRP, as required by TEX. WATER CODE § 11.0842, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.104(a).
12. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served Mr. Shupak with proper notice of the EDFARP, as required by TEX. WATER CODE § 11.0842, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.104(c)(2).

13. As evidenced by Finding of Fact Nos. 9 and 10, the Executive Director timely served Mr. Shupak with proper notice of the EDSARP, as required by TEX. WATER CODE § 11.0842, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.104(c)(2).
14. As evidenced by Finding of Fact No. 11, Mr. Shupak failed to file a timely answer to either the EDPRP, EDFARP, or EDSARP as required by TEX. WATER CODE § 11.0842, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 11.0842, TEX. HEALTH & SAFETY CODE § 341.049, and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Shupak and assess the penalty recommended by the Executive Director.
15. Pursuant to TEX. WATER CODE § 11.0842 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Mr. Shupak for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
16. An administrative penalty in the amount of two thousand one hundred forty-one dollars (\$2,141.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 11.0842 and TEX. HEALTH & SAFETY CODE § 341.049(b).
17. 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. Mr. Shupak is assessed an administrative penalty in the amount of two thousand one hundred forty-one dollars (\$2,141.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Shupak'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. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Curtis J. Shupak dba Village Water; Docket No. 2009-0361-MLM-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

2. Mr. Shupak shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Shupak shall:
 - i. Begin completing customer service inspection certificates prior to providing continuous water service to new construction or any existing service where cross connections or other potential contamination hazards exist;
 - ii. Equip the pressure tank with a device to readily determine air-water-volume;
 - iii. Compile and make available for review during inspections all results of microbiological analyses;
 - iv. Compile and maintain a plant operations manual; and
 - v. Pay all outstanding fees, including any associated penalties and interest and with the notation "Re: Curtis J. 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, Mr. Shupak shall submit written certification, as detailed in Ordering Provision No. 2.g. below, include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 60 days after the effective date of this Order, Mr. Shupak shall:
 - i. Conduct an annual inspection of the pressure tank as well as an inspection of the interior of the pressure tank;

- ii. Obtain a sanitary control easement covering land within 150 feet of Well No. 1; and
- iii. Develop and properly maintain a drought contingency plan.
- d. Within 75 days after the effective date of this Order, Mr. Shupak shall submit written certification, as detailed in Ordering Provision No. 2.g. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 120 days after the effective date of this Order, Mr. Shupak shall provide a well capacity of 1.5 gpm.
- f. Within 135 days after the effective date of this Order, Mr. Shupak shall submit written certification, as detailed in Ordering Provision No. 2.g. below, and include supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.e.
- g. The certification required by Ordering Provisions Nos. 2.b., 2.d., and 2.f. 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.”

Mr. Shupak shall submit the written certification and copies of documentation necessary to demonstrate compliance 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 Burlison, Water/Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Shupak. Mr. Shupak 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. If Mr. Shupak fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Shupak 's failure to comply is not a violation of this Order Mr. Shupak shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Shupak shall notify the Executive Director within seven days after Mr. Shupak becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Mr. Shupak shall be made in writing to the Executive Director. Extensions are not effective until Mr. Shupak 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 Mr. Shupak if the Executive Director determines that Mr. Shupak 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.

Curtis J. Shupak dba Village Water
Docket No. 2009-0361-MLM-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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 J. Shupak dba Village Water” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 10, 2009.

I sent the EDPRP to Mr. Shupak at his last known address on July 10, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Shupak received notice of the EDPRP on July 14, 2009, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended 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 J. Shupak dba Village Water” (the “EDFARP”) was filed with the Office of the Chief Clerk on August 31, 2009.

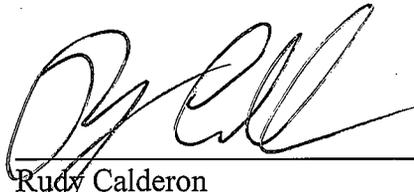
I sent the EDFARP to Mr. Shupak at his last known address on August 31, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended 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 J. Shupak dba Village Water” (the “EDSARP”) was filed with the Office of the Chief Clerk on November 17, 2009.

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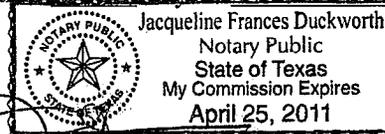
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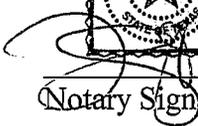
Rudy Calderon
Attorney
Texas Commission on Environmental Quality

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 15th day of December A.D., 2009.



Notary Stamp


Notary Signature