

Executive Summary – Enforcement Matter – Case No. 42006
RICHARD J. DUDA
RN105362529
Docket No. 2011-1126-PWS-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PWS

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
Intersection of Farm-to-Market Road 986 and Four Post Lane, Kaufman County

Type of Operation:
public water system

Other Significant Matters:

| | |
|---|-----------------------------------|
| Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | None |
| Past-Due Fees: | \$317.35 (PHS Acct. No. 91290050) |
| Other: | None |
| Interested Third-Parties: | None |

Texas Register Publication Date: November 18, 2011

Comments Received: None

Penalty Information

| | |
|--|---------|
| Total Penalty Assessed: | \$2,904 |
| Amount Deferred for Expedited Settlement: | N/A |
| Amount Deferred for Financial Inability to Pay: | N/A |
| Total Paid to General Revenue: | \$0 |
| Total Due to General Revenue: | \$2,904 |

Compliance History Classifications:

Person/CN – N/A
Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

RICHARD J. DUDA

RN105362529

Docket No. 2011-1126-PWS-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 31, 2011
Date(s) of NOV(s): See Compliance History – Seven related NOVs
Date(s) of NOE(s): June 3, 2011

Violation Information

1. Failed to submit a Disinfectant Level Quarterly Operating Report (“DLQOR”) to the Executive Director each quarter by the tenth day of the month following the end of the quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
2. Failed to mail or directly deliver one copy of the Customer Confidence Report (“CCR”) to each bill paying customer by July 1 of each year, and failed to submit 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 to the TCEQ by July 1 of each year [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 30 days:
 - a. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers; and
 - b. Update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs.
2. Within 45 days:
 - a. Submit written certification to demonstrate compliance with Technical Requirement No. 1; and
 - b. Submit to the Commission a copy of the CCR provided to customers of the Facility and the 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 for the year 2010.
3. Within 60 days, submit written certification to demonstrate compliance with Technical Requirement No. 2.
4. Within 90 days, begin submitting DLQORs to the Executive Director by the tenth day of the month following the end of each quarter. This provision will be satisfied upon two consecutive quarters of compliant reporting.
5. Within 285 days, submit written certification to demonstrate compliance with Technical Requirement No. 4.

RICHARD J. DUDA

RN105362529

Docket No. 2011-1126-PWS-E

Litigation Information

Date Petition(s) Filed: September 13, 2011

Date(s) Green Card(s) Signed: Unclaimed

Date(s) Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Rudy Calderon, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Stephen Thompson, Water Enforcement Section, (512) 239-2558

TCEQ Regional Contact: Sid Slocum, DFW Regional Office, (817) 588-5800

Respondent: Richard Duda, 19367 Farm-to-Market Road 986, Terrell, Texas 75160

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|-------------|
| DATES | Assigned | 13-Jun-2011 | Screening | 5-Jul-2011 | EPA Due | 30-Jun-2010 |
| | PCW | 5-Aug-2011 | | | | |

| | | | |
|--|---------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Richard J. Duda | | |
| Reg. Ent. Ref. No. | RN105362529 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

| | | | |
|--|---------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 42006 | No. of Violations | 2 |
| Docket No. | 2011-1126-PWS-E | Order Type | Findings |
| Media Program(s) | Public Water Supply | Government/Non-Profit | No |
| Multi-Media | | 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 | \$1,400 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|---------|
| Compliance History | 75.0% Enhancement | Subtotals 2, 3, & 7 | \$1,050 |
|---------------------------|-------------------|--------------------------------|---------|

Notes: Enhancement for seven NOV's with same/similar violations and 20 NOV's with dissimilar violations.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$458
 Approx. Cost of Compliance: \$537
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,450 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|-------|-------------------|-------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 18.5% | Adjustment | \$454 |
|---|-------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs of compliance.

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$2,904 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$2,904 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$2,904 |
|------------------------|---------|

Screening Date 5-Jul-2011

Docket No. 2011-1126-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 2 (September 2002)

Case ID No. 42006

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105362529

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 7 | 35% |
| | Other written NOVs | 20 | 40% |
| 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 | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of 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) 75%

>> 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 for seven NOVs with same/similar violations and 20 NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 75%

Screening Date 5-Jul-2011

Docket No. 2011-1126-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 2 (September 2002)

Case ID No. 42006

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

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

Violation Description Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, at the time of the record review, it was documented that the Respondent did not submit DLQORs for the first quarter of 2008 through the fourth quarter of 2010.

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% | |
| 100% of the rule requirement was not met. | | | | | |

Adjustment \$900

\$100

Violation Events

Number of Violation Events 12 1095 Number of violation days

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

Violation Base Penalty \$1,200

Twelve quarterly events are recommended, calculated for the quarters in which DLQORs were not submitted.

Good Faith Efforts to Comply

0.0% Reduction \$0

| | Reduction | |
|---------------|------------|------------------------------|
| | Before NOV | NOV to EDRP/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 \$1,200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$325

Violation Final Penalty Total \$2,489

This violation Final Assessed Penalty (adjusted for limits) \$2,489

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 42006
Req. Ent. Reference No. RN105362529
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 | \$45 | 31-May-2011 | 1-Feb-2012 | 0.67 | \$2 | n/a | \$2 |
| Training/Sampling | \$100 | 31-May-2011 | 1-Feb-2012 | 0.67 | \$3 | n/a | \$3 |
| 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 estimated amount to update the Facility's operational guidance and conduct employee training to ensure all DLQORs are submitted to the TCEQ in a timely manner, calculated from the record review date 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] | \$270 | 1-Apr-2008 | 10-Jan-2011 | 3.70 | \$50 | \$270 | \$320 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to maintain disinfectant residual level data and report it to the Executive Director on a quarterly basis, calculated for the period in which the reports were due.

Approx. Cost of Compliance

\$415

TOTAL

\$325

Screening Date 5-Jul-2011

Docket No. 2011-1126-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 2 (September 2002)

Case ID No. 42006

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b), 290.274(a) and (c)

Violation Description

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 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 to the TCEQ by July 1 of each year. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers for the years 2008 and 2009 nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2008 and 2009.

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 |
|---------------|-------|----------|-------|---------|
| | x | | | 10% |

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 1460 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | x |
| single event | |

mark only one with an x

Violation Base Penalty \$200

Two annual events are recommended for the two years during which no CCRs or certifications of delivery were submitted to the TCEQ.

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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$134

Violation Final Penalty Total \$415

This violation Final Assessed Penalty (adjusted for limits) \$415

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 42006
Req. Ent. Reference No. RN105362529
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

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] | \$122 | 1-Jul-2009 | 1-Jul-2010 | 1.92 | \$12 | \$122 | \$134 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided costs include the amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the years in which no reports were distributed.

Approx. Cost of Compliance

\$122

TOTAL

\$134

Compliance History

Customer/Respondent/Owner-Operator: CN603675992 RICHARD J. DUDA Classification: Rating:

Regulated Entity: RN105362529 FOUR POST COMMUNITY WATER Classification: Site Rating:
SYSTEM

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1290050

Location: INTX OF FM 986 AND FOUR POST LN, KAUFMAN COUNTY, TX

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: July 04, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 05, 2006 to July 05, 2011

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? No
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.
N/A
- 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 | 10/30/2007 | (598089) | 17 | 06/01/2011 | (923090) |
| 2 | 05/25/2010 | (801647) | 18 | 06/01/2011 | (923096) |
| 3 | 05/25/2010 | (824420) | 19 | 06/01/2011 | (923106) |
| 4 | 05/27/2010 | (824672) | 20 | 06/01/2011 | (923113) |
| 5 | 05/27/2010 | (824678) | 21 | 06/01/2011 | (923125) |
| 6 | 05/27/2010 | (824683) | 22 | 06/01/2011 | (923143) |
| 7 | 05/27/2010 | (824684) | 23 | 06/01/2011 | (923200) |
| 8 | 05/27/2010 | (824687) | 24 | 06/03/2011 | (923382) |
| 9 | 05/27/2010 | (824708) | 25 | 06/03/2011 | (923475) |
| 10 | 05/27/2010 | (824713) | 26 | 06/03/2011 | (923776) |
| 11 | 06/11/2010 | (825614) | 27 | 06/03/2011 | (923785) |
| 12 | 05/31/2011 | (920428) | 28 | 06/03/2011 | (923790) |
| 13 | 06/01/2011 | (923027) | 29 | 06/03/2011 | (923794) |
| 14 | 06/01/2011 | (923032) | 30 | 06/03/2011 | (923798) |
| 15 | 06/01/2011 | (923050) | 31 | 06/02/2011 | (923811) |
| 16 | 06/01/2011 | (923080) | | | |

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

Date: 03/27/2009 (923794) CN603675992

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2008. This system also failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first, second, and third quarters of 2008 but notices of violation were not sent.

Date: 07/21/2009 (923790) CN603675992

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2009.

Date: 07/23/2009 (824420) CN603675992

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)

Description: TCR MCL Violation 07/2009 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: TCR PN MCL Violation 07/2009 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation.

Date: 10/01/2009 (923785) CN603675992

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2009.

Date: 11/03/2009 (923811) CN603675992

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: Moderate
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.

Date: 11/05/2009 (824678) CN603675992

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 09/2009 - Failure to collect any 5 distribution samples following a coliform found month.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Increase Monitoring Violation 09/2009 - Failure to post public notice for not collecting any of the 5 distribution samples following a coliform found month.

Date: 12/08/2009 (824672) CN603675992

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: TCR Repeat Monitoring Violation 10/2009 - Failure to collect any repeats following a coliform found result.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: TCR PN Repeat Monitoring Violation 10/2009 - Failure to post a public notice for not collecting any repeats following a coliform found result.

Date: 01/13/2010 (824683) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 11/2009 - Failure to collect all 5 distribution samples following a coliform found month.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Increase Monitoring Violation 11/2009 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

Date: 01/26/2010 (824684) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 12/2009 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 12/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/16/2010 (824687) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 01/2010 - Failure to collect any routine monitoring sample(s).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 01/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 03/29/2010 (824708) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 02/2010 - Failure to collect any routine monitoring sample(s).

Date: 05/03/2010 (824713) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 03/2010 - Failure to collect any routine monitoring sample(s).

Date: 06/10/2010 (923096) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 04/2010 - Failure to collect any routine monitoring sample(s).

Date: 07/06/2010 (923106) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 05/2010 - Failure to collect any routine monitoring sample(s).

Date: 07/23/2010 (923113) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 06/2010 - Failure to collect any routine monitoring sample(s).

Date: 08/31/2010 (923125) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine Monitoring Violation 07/2010 - Failure to collect any routine monitoring sample(s).

Date: 09/29/2010 (923143) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 08/2010 - Failure to collect any routine monitoring sample(s).

Date: 10/26/2010 (923200) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Date: 12/07/2010 (920428) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Date: 12/22/2010 (923798) CN603675992
 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 2009 to its bill-paying customers.
 Self Report? NO Classification: Moderate
 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 2009 CCR year to the TCEQ.

Date: 01/04/2011 (923027) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2010 - Failure to collect any routine monitoring sample(s).

Date: 02/11/2011 (923032) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).

Date: 03/10/2011 (923050) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2011 - Failure to collect any routine monitoring sample(s).

Date: 03/31/2011 (923080) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).

Date: 04/29/2011 (923090) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 03/2011 - Failure to collect any routine monitoring sample(s).

Date: 06/01/2011 (923475) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010. This system also failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third and fourth quarters of 2009, and the first and second quarters of 2010 but notices of violation have not been sent.

Date: 06/01/2011 (923776)

CN603675992

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RICHARD J. DUDA;
RN105362529**

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§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1126-PWS-E

At its _____ agenda meeting, 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 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 Richard J. Duda ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns a public water system located at the intersection of Farm-to-Market Road 986 and Four Post Lane in Kaufman County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 22 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).
2. During a record review conducted on May 31, 2011, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of the quarter. Specifically, Respondent did not submit DLQORs for the first quarter of 2008 through the fourth quarter of 2010; and
 - b. Failed to mail or directly deliver one copy of the Customer Confidence Report ("CCR") to each bill paying customer by July 1 of each year, and failed to submit 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 to the TCEQ by July 1 of each year. Specifically, Respondent did not mail or directly deliver the CCRs to the Facility's customers for the years 2008 and 2009 nor did Respondent submit the CCR or the required certification to the TCEQ for the years 2008 and 2009.

3. Respondent received notice of the violations on or about June 8, 2011.
4. 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 Richard J. Duda" (the "EDPRP") in the TCEQ Chief Clerk's office on September 13, 2011.
5. By letter dated September 13, 2011, sent to Respondent's last known address 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.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
3. As evidenced by Finding of Fact No. 2.b., 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 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 to the TCEQ by July 1 of each year, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
4. As evidenced by Findings of Fact Nos. 4 and 5, 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. 6, 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 state statutes 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 two thousand nine hundred four dollars (\$2,904.00) 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 two thousand nine hundred four dollars (\$2,904.00) 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: Richard J. Duda; Docket No. 2011-1126-PWS-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
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 2010 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, in accordance with 30 TEX. ADMIN. CODE § 290.274; and
 - ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - b. Within 45 days after the effective date of this Order, Respondent shall:
 - i. Submit written certification, in accordance with Ordering Provision No. 3.f. below, to demonstrate compliance with Ordering Provision No. 3.a.; and

- ii. Submit to the Commission a copy of the CCR provided to customers of the Facility and the 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 for the year 2010, in accordance with 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section
Water Supply Division, MC155
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- c. Within 60 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 3.f. below, to demonstrate compliance with Ordering Provision No. 3.b.ii.;
- d. Within 90 days after the effective date of this Order, Respondent shall begin submitting DLQORs to the Executive Director by the tenth day of the month following the end of each quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting. DLQORs shall be submitted to:

Public Drinking Water Section
Attention: DLQOR Coordinator, MC 155
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- e. Within 285 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provision No. 3.d.
- f. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

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

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

For the Commission

AFFIDAVIT OF RUDY CALDERON

STATE OF TEXAS

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COUNTY OF TRAVIS

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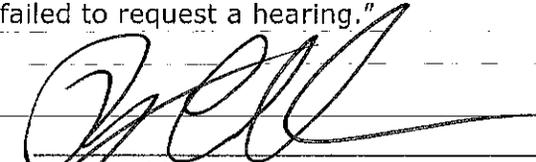
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"My name is Rudy Calderon. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Richard J. Duda" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 13, 2011.

The EDPRP was mailed to Respondent's last known address on September 13, 2011, 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).

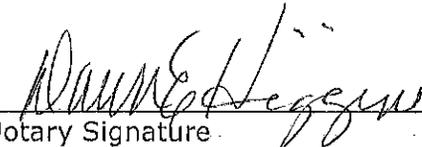
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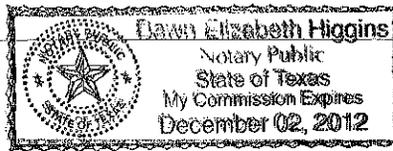
Rudy Calderon, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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 20th day of October, A.D. 2011.



Notary Signature



NOTARY WITHOUT BOND