

Executive Summary – Enforcement Matter – Case No. 41995  
Derby Water Supply Corporation  
RN101281178  
Docket No. 2011-1101-PWS-E

**Order Type:**

Default Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

southeast corner of the intersection of County Road 3415 and County Road 3428, Moore, Frio County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$110.70 (Account No. 90820016)
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** February 17, 2012

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$5,010

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$5,010

**Compliance History Classifications:**

Person/CN – N/A

Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** June 20, 2011  
**Date(s) of NOV(s):** See Compliance History – 13 same/similar NOVs  
**Date(s) of NOE(s):** June 24, 2011

***Violation Information***

1. Failed to provide the results of triennial metal, mineral, and radionuclide sampling to the Executive Director [30 TEX. ADMIN. CODE §§ 290.106(e) and 290.108(e)].
2. Failed to provide the results of annual nitrate sampling to the Executive Director [30 TEX. ADMIN. CODE § 290.106(e)].
3. Failed to collect routine distribution water samples for coliform analysis, and failed to provide notice to persons served the Facility regarding the failure to conduct routine coliform monitoring [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)].
4. Failed to submit Disinfectant Level Quarterly Operating Reports (“DLQORs”) to the Executive Director each quarter by the tenth day of the month following the end of each quarter [30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3)].
5. Failed to mail or directly deliver a copy of the Consumer Confidence Report (“CCR”) to each bill paying customer by July 1 of each year, and failed to submit to the Executive Director by July 1 of each year, a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].
6. Failed to pay annual PHS fees, including associated late fees for, Fiscal Year 2011 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**  
N/A

**Technical Requirements:**

1. Within 30 days:
  - a. Implement procedures to ensure that CCRs are mailed or directly delivered to each bill paying customer and good faith efforts are made to deliver a copy of the CCR to non-bill paying customers by July 1 of each year;
  - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility;
  - c. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
  - d. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director, or demonstrate that a compliance schedule has been established;

**Executive Summary – Enforcement Matter – Case No. 41995**  
**Derby Water Supply Corporation**  
**RN101281178**  
**Docket No. 2011-1101-PWS-E**

- e. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of either the Executive Director's request or receipt by the Facility;
  - f. 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; and
  - g. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 90820016.
2. Within 60 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a., 1.b., and 1.d. through 1.g.
  3. Within 90 days, begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter.
  4. Within 105 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.
  5. Within 195 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.c.

***Litigation Information***

**Date Petition(s) Filed:** December 5, 2011  
**Date(s) Green Card(s) Signed:** December 8, 2011  
**Date(s) Answer(s) Filed:** N/A

***Contact Information***

**TCEQ Attorneys:** Sharesa Y. Alexander, Litigation Division, (512) 239-3503  
Lena Roberts, Litigation Division, (512) 239-3400  
Scott Humphrey, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Michaelle Sherlock, Water Enforcement Section, (210) 403-4076

**TCEQ Regional Contact:** Lynn Bumguardner, San Antonio Regional Office, (210) 403-4050

**Respondent:** Randall Roberts, President, Derby Water Supply Corporation, 889 Tampico Circle, Eagle Pass, Texas 78852

**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	27-Jun-2011	<b>Screening</b>	1-Jul-2011	<b>EPA Due</b>	30-Sep-2009
	<b>PCW</b>	1-Jul-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Derby Water Supply Corporation
<b>Reg. Ent. Ref. No.</b>	RN101281178
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41995	<b>No. of Violations</b>	6
<b>Docket No.</b>	2011-1101-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michaelle Sherlock
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	67.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,010
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Notes: Enhancement for 13 NOVs with same/similar violations and one NOV with dissimilar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$743	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,265	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,010
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$5,010
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,010
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$5,010
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**Screening Date** 1-Jul-2011

**Docket No.** 2011-1101-PWS-E

**PCW**

**Respondent** Derby Water Supply Corporation

*Policy Revision 2 (September 2002)*

**Case ID No.** 41995

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101281178

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Michaelle Sherlock

### 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> )	13	65%
	Other written NOVs	1	2%
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)** 67%

**>> 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 13 NOVs with same/similar violations and one NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 67%

Screening Date 1-Jul-2011

Docket No. 2011-1101-PWS-E

PCW

Respondent Derby Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41995

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.106(e) and 290.108(e)

Violation Description Failed to provide the results of triennial metal, mineral, and radionuclide sampling to the Executive Director. Specifically, the Respondent failed to provide metal, mineral, and radionuclide monitoring results for the monitoring period from January 1, 2008 through December 31, 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
	100% of the rule requirement was not met.				

Adjustment \$900

\$100

Violation Events

Number of Violation Events 3 1095 Number of violation days

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

Violation Base Penalty \$300

Three single events are recommended, one for each missing report.

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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$131

Violation Final Penalty Total \$501

This violation Final Assessed Penalty (adjusted for limits) \$501

## Economic Benefit Worksheet

**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Req. Ent. Reference No.** RN101281178  
**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)	\$1,500	31-Dec-2010	1-Apr-2012	1.25	\$6	\$125	\$131
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 estimated amount to pay any outstanding lab fees so that the lab will release the metal and mineral sample results and the Respondent can provide them to the Executive Director. The date required is the last date of the monitoring period in which metal and mineral results were not provided and the final date is 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

\$1,500

**TOTAL**

\$131

Screening Date 1-Jul-2011

Docket No. 2011-1101-PWS-E

PCW

Respondent Derby Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41995

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.106(e)

Violation Description Failed to provide the results of annual nitrate sampling to the Executive Director. Specifically, the Respondent failed to provide nitrate monitoring results for the year 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 1 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$100

One annual 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 \$0

Violation Final Penalty Total \$167

This violation Final Assessed Penalty (adjusted for limits) \$167

## Economic Benefit Worksheet

**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Req. Ent. Reference No.** RN101281178  
**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

The delayed costs are captured in the economic benefit worksheet associated with Violation No. 1.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

Screening Date 1-Jul-2011

Docket No. 2011-1101-PWS-E

PCW

Respondent Derby Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41995

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of February 2011 through May 2011 and failed to provide notice to persons served by the Respondent regarding the failure to conduct routine coliform monitoring for the month of February 2011.

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 routine coliform monitoring and failure to provide notice could result in persons served by the Facility being exposed to significant amounts of undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4 120 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

Four monthly events are recommended for the months routine samples were not collected.

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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$136

Violation Final Penalty Total \$1,670

This violation Final Assessed Penalty (adjusted for limits) \$1,670

## Economic Benefit Worksheet

**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Req. Ent. Reference No.** RN101281178  
**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				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)	\$100	20-Jun-2011	1-Apr-2012	0.78	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner. The date required is the record review date. The final date is 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]	\$100	28-Feb-2011	31-May-2011	1.17	\$6	\$100	\$106
Other (as needed)	\$25	1-Mar-2011	31-May-2011	1.17	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount (\$25 x 4 samples) to conduct routine coliform sampling and provide public notification (\$25 per notification) of the failure to sample, calculated for the months sampling was not conducted and the period that a public notice was required and when public notification should have been provided.

Approx. Cost of Compliance

\$225

**TOTAL**

\$136

Screening Date 1-Jul-2011

Docket No. 2011-1101-PWS-E

PCW

Respondent Derby Water Supply Corporation

Policy Revision 2 (September 2002)

Case ID No. 41995

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Sherlock

Violation Number 4

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, the Respondent failed to submit DLQORs from the second quarter of 2007 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 15 1350 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

Fifteen quarterly events are recommended.

Good Faith Efforts to Comply

	Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$417

Violation Final Penalty Total \$2,505

This violation Final Assessed Penalty (adjusted for limits) \$2,505

## Economic Benefit Worksheet

**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Req. Ent. Reference No.** RN101281178  
**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
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	20-Jun-2011	1-Apr-2012	0.78	\$2	n/a	\$2
Training/Sampling	\$100	20-Jun-2011	1-Apr-2012	0.78	\$4	n/a	\$4
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 estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all DQORs 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]	\$337	10-Jul-2007	10-Jan-2011	4.42	\$75	\$337	\$412
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to prepare and submit the missing DQORs. The date required is the day the report was due for the second quarter of 2007 and the final date is the day the report was due for the fourth quarter of 2010.

Approx. Cost of Compliance

\$482

**TOTAL**

\$417

**Screening Date** 1-Jul-2011  
**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Reg. Ent. Reference No.** RN101281178  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Michaelle Sherlock

**Docket No.** 2011-1101-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number** 5

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

**Violation Description**

Failed to mail or directly deliver a copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to it's customers nor did it submit the CCR and the required certification to the Executive Director for the year 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 1 365 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
single event		

**Violation Base Penalty** \$100

One annual 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** \$58

**Violation Final Penalty Total** \$167

**This violation Final Assessed Penalty (adjusted for limits)** \$167

## Economic Benefit Worksheet

**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Req. Ent. Reference No.** RN101281178  
**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				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]	\$58	1-Jul-2010	1-Jul-2010	0.00	\$0	\$58	\$58
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to produce copies of the CCR and mail or directly deliver the reports to customers of the water supply, calculated for the time period when the report was due.

Approx. Cost of Compliance \$58

**TOTAL** \$58

**Screening Date** 1-Jul-2011  
**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Reg. Ent. Reference No.** RN101281178  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Michaelle Sherlock

**Docket No.** 2011-1101-PWS-E

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision October 30, 2008*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction  
 Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Derby Water Supply Corporation  
**Case ID No.** 41995  
**Req. Ent. Reference No.** RN101281178  
**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)				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

N/A

### 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

N/A

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

# Compliance History

Customer/Respondent/Owner-Operator: CN600671895 Derby Water Supply Corporation Classification: Rating:  
Regulated Entity: RN101281178 DERBY WATER SUPPLY CORPORATION Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0820016  
WATER LICENSING LICENSE 0820016  
Location: SE CORNER OF THE INTERSECTION OF CR 3415 and CR 3428, FRIO COUNTY, TEXAS  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: June 27, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 27, 2006 to June 27, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Michaelle Sherlock Phone: (210) 403-4076

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
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	08/07/2006	(484078)	10	10/01/2009	(934711)
2	11/15/2007	(600434)	11	07/21/2009	(934715)
3	07/06/2009	(749582)	12	03/27/2009	(934734)
4	06/23/2011	(934372)	13	06/23/2011	(934745)
5	06/22/2011	(934674)	14	06/23/2011	(934881)
6	06/23/2011	(934688)	15	06/23/2011	(934901)
7	06/23/2011	(934696)	16	06/23/2011	(934907)
8	06/23/2011	(934699)	17	06/24/2011	(935095)
9	06/23/2011	(934707)			

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

1. **Date: 03/27/2009 (934734) CN600671895**

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.

2. **Date: 06/23/2009 (749582) CN600671895**

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)  
Description: Failure to record weekly water usage.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to provide the water system with a Monitoring Plan.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
Description: Failure to conduct annual tank inspections.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)  
Description: Failure to maintain well completion data.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 288, SubChapter B 288.20  
30 TAC Chapter 288, SubChapter B 288.20(a)  
Description: Failure to adopt a drought contingency plan.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
Description: Failure to provide an adequate Operations Manual.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain facilities to ensure proper working conditions.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
Description: Failure to provide an adequate well casing vent.

3. **Date: 07/21/2009 (934715) CN600671895**

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.

4. **Date: 10/01/2009 (934711) CN600671895**

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.

5. **Date: 12/22/2010 (934745) CN600671895**

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.

6. **Date: 03/31/2011 (934881) CN600671895**

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).

7. **Date: 04/29/2011 (934901) CN600671895**

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).

8. **Date: 06/03/2011 (934907) CN600671895**

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

9. **Date: 06/16/2011 (934707) CN600671895**

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.

10. **Date: 06/22/2011 (934696) CN600671895**

Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)  
30 TAC Chapter 290, SubChapter F 290.106(e)  
Description: This system failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for the annual monitoring period from 01/01/2010 to 12/31/2010.

11. **Date: 06/22/2011 (934699) CN600671895**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(3)  
30 TAC Chapter 290, SubChapter F 290.108(f)(4)  
Description: This system failed to monitor and/or failed to report radionuclide levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

**12. Date: 06/22/2011 (934674) CN600671895**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)  
30 TAC Chapter 290, SubChapter F 290.106(e)

Description: This system failed to monitor and/or failed to report metal levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

**13. Date: 06/22/2011 (934688) CN600671895**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(4)  
30 TAC Chapter 290, SubChapter F 290.106(e)

Description: This system failed to monitor and/or failed to report mineral levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

**14. Date: 06/22/2011 (934372) CN600671895**

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  
DERBY WATER SUPPLY  
CORPORATION;  
RN101281178**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-1101-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. WATER CODE ch. 5, 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 Derby Water Supply Corporation ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at the southeast corner of the intersection of County Road 3415 and County Road 3428 in Moore, Frio County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 17 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 June 20, 2011, a TCEQ Central Office investigator documented that Respondent:
  - a. Failed to provide the results of triennial metal, mineral, and radionuclide sampling to the Executive Director. Specifically, Respondent failed to provide metal, mineral, and radionuclide monitoring results for the monitoring period from January 1, 2008 through December 31, 2010;
  - b. Failed to provide the results of annual nitrate sampling to the Executive Director. Specifically, Respondent failed to provide nitrate monitoring results for the year 2010;
  - c. Failed to collect routine distribution water samples for coliform analysis for the months of February 2011 through May 2011, and failed to provide notice to persons served by the Facility regarding the failure to conduct routine coliform monitoring for the month of February 2011;
  - d. Failed to submit Disinfectant Level Quarterly Operating Reports ("DLQORs") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, Respondent failed to submit DLQORs from the second quarter of 2007 through the fourth quarter of 2010; and

- e. Failed to mail or directly deliver a copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year, and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, Respondent did not mail or directly deliver the CCRs to its customers nor did it submit the CCR and the required certification to the Executive Director for the year 2009.
3. During an overdue fee investigation conducted on July 1, 2011, a TCEQ Enforcement Coordinator documented that Respondent failed to pay annual public health service ("PHS") fees, including associated late fees, for TCEQ Financial Administration ("FA") Account No. 90820016 for Fiscal Year 2011.
4. Respondent received notice of the violations alleged in Findings of Fact Nos. 2.a. through 2.e. on or about June 29, 2011.
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 Derby Water Supply Corporation" (the "EDPRP") in the TCEQ Chief Clerk's office on December 5, 2011.
6. By letter dated December 5, 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. According to the return receipt "green card," Respondent received notice of the EDPRP on December 8, 2011, as evidenced by the signature on the card.
7. 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. WATER CODE ch. 5, 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 provide the results of triennial metal, mineral, and radionuclide sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(e) and 290.108(e).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide the results of annual nitrate sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect routine distribution water samples for coliform analysis, and failed to provide notice to persons served the Facility regarding the failure to conduct routine coliform monitoring for the month of February 2011, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d).

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to submit DLQORs to the Executive Director each quarter by the tenth day of the month following the end of each quarter, in violation of 30 TEX. ADMIN. CODE § 290.110(e)(4)(A) and (f)(3).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to mail or directly deliver a copy of the CCR to each bill paying customer by July 1 of each year, and failed to submit to the Executive Director by July 1 of each year, a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
7. As evidenced by Finding of Fact No. 3, Respondent failed to pay annual PHS fees, including associated late fees for Fiscal Year 2011, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
8. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
9. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
10. 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.
11. An administrative penalty in the amount of five thousand ten dollars (\$5,010.00) 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.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of five thousand ten dollars (\$5,010.00) 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: Derby Water Supply Corporation; Docket No. 2011-1101-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. Implement procedures to ensure that CCRs are mailed or directly delivered to each bill paying customer and good faith efforts are made to deliver a copy of the CCR to non-bill paying customers by July 1 of each year, in accordance with 30 TEX. ADMIN. CODE §§ 290.271 and 290.274 (Conclusion of Law No. 6);
    - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122 (Conclusion of Law No. 4);
    - iii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility (Conclusion of Law No. 4);
    - iv. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director, or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Inorganic Contaminants) and 290.108 (Radionuclides other than Radon) (Conclusions of Law Nos. 2 and 3);
    - v. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of either the Executive Director's request or receipt by the Facility, whichever later, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Inorganic Contaminants) and 290.108 (Radionuclides other than Radon) (Conclusions of Law Nos. 2 and 3);
    - vi. 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 (Conclusion of Law No. 5); and

- vii. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 90820016, in accordance with 30 TEX. ADMIN. CODE § 290.51 (Conclusion of Law No. 7). The payment shall be sent with the notation "Derby Water Supply Corporation, FA Account No. 90820016 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 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 Provisions Nos. 3.a.i., 3.a.ii., and 3.a.iv. through 3.a.v.ii.
- c. Within 90 days after the effective date of this Order, Respondent shall begin submitting DLQORs to the Executive Director each quarter by the tenth day of the month following the end of the quarter, in accordance with 30 TEX. ADMIN. CODE § 290.110. This provision will be satisfied upon two consecutive quarters of compliant reporting (Conclusion of Law No. 5). DLQORs shall be submitted to:
- DLQOR Coordinator  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
- d. Within 105 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provision No. 3.c.
- e. Within 195 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f., below, to demonstrate compliance with Ordering Provision No. 3.a.iii.
- 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:

Elston Johnson, 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

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For the Commission

**AFFIDAVIT OF SHARESA Y. ALEXANDER**

**STATE OF TEXAS**

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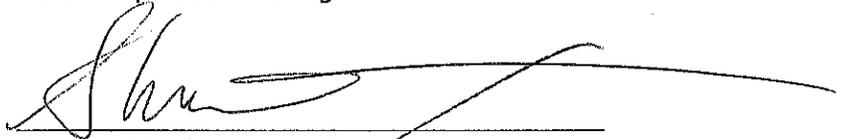
**COUNTY OF TRAVIS**

"My name is Sharesa Y. Alexander. 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 Derby Water Supply Corporation" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 5, 2011.

The EDPRP was mailed to Respondent's last known address on December 5, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on December 8, 2011, as evidenced by the signature on the card.

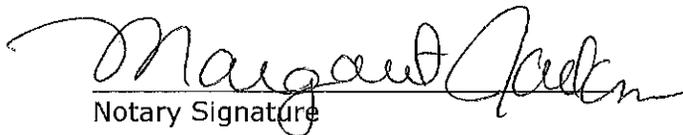
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Sharesa Y. Alexander, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 30<sup>th</sup> day of March, A.D. 2012.



Notary Signature

