

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41995
DERBY WATER SUPPLY CORPORATION
RN101281178
Docket No. 2013-1270-PWS-E

Order Type:

Default Order

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:	\$6,588.15 (2011-1101-PWS-E)
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: January 31, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$3,465

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$3,465

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: August 23, 2012; January 2, April 4, and June 10, 2013

Date(s) of NOV(s): See Compliance History - 8 related NOVs

Date(s) of NOE(s): June 24, 2013

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41995
DERBY WATER SUPPLY CORPORATION
RN101281178
Docket No. 2013-1270-PWS-E

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification for the failure [TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A); and TCEQ Default Order Docket No 2011-1101-PWS-E, Ordering Provisions Nos. 3.a.ii. and 3.a.iii.].
2. 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 the quarter [30 TEX. ADMIN. CODE §§ 290.110(e)(4)(A) and (f)(3); and TCEQ Default Order Docket No 2011-1101-PWS-E, Ordering Provision Nos. 3.a.vi. and 3.c.].
3. Failed to mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) for the year 2011 to each bill paying customer by July 1, 2012, and failed to submit to the TCEQ by July 1, 2012 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) and TCEQ Default Order Docket No 2011-1101-PWS-E, Ordering Provision No. 3.a.i.].
4. Failed to provide public notification for the failure to collect routine monitoring samples [30 TEX. ADMIN. CODE § 290.122(c)(2)(A); and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision No. 3.a.ii.].
5. Failed to provide the results of annual nitrate sampling to the Executive Director [30 TEX. ADMIN. CODE § 290.106(e); and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provisions Nos. 3.a.iv. and 3.a.v.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 10 days:
 - a. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants (violation 1); and
 - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility, including providing notification for failure to collect routine distribution samples for coliform analysis (violation 4).
2. Within 30 days:
 - a. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established (violation 5);
 - b. Implement improvements of 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 Executive Director’s requests or of their receipt by the Facility, whichever is later (violation 5);
 - c. Update the Facility’s operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including timely submission of signed DLQORs (violation 2); and
 - d. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2012 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers (violation 3).

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41995
DERBY WATER SUPPLY CORPORATION
RN101281178
Docket No. 2013-1270-PWS-E

3. Within 60 days, submit to the Commission a copy of the CCR provided to Customers of the Facility 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 (violation 3).
4. 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. This provision will be satisfied upon two consecutive quarters of compliant reporting (violation 2).
5. Submit written certification to demonstrate compliance:
 - a. Within 15 days for Technical Requirement No. 1;
 - b. Within 45 days for Technical Requirement No. 2;
 - c. Within 75 days for Technical Requirement No. 3;
 - d. Within 195 days for Technical Requirement No. 4.

Litigation Information

Date Petition(s) Filed: October 24, 2013
Date Green Card(s) Signed: October 26, 2013
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Jim Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Katy Montgomery, Enforcement Division, (512) 239-2602
TCEQ Regional Contact: Lynn Bumguardner, San Antonio Regional Office, (210) 490-3096
Respondent: Humberto Gonzales, Vice President, DERBY WATER SUPPLY CORPORATION,
517 Power Plant Road, Pearsall, Texas 78061
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	22-Jan-2013			
	PCW	7-Oct-2013	Screening	3-May-2013	EPA Due 31-Dec-2012

RESPONDENT/FACILITY INFORMATION

Respondent	DERBY WATER SUPPLY CORPORATION				
Reg. Ent. Ref. No.	RN101281178				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	41995	No. of Violations	5
Docket No.	2013-1270-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Katy Montgomery
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$816	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,093	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 3-May-2013

Docket No. 2013-1270-PWS-E

PCW

Respondent DERBY WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 41995

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

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>)	8	40%
	Other written NOVs	0	0%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 65%

>> 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 eight NOVs with same/similar violations and one default order.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 65%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 65%

Screening Date 3-May-2013

Docket No. 2013-1270-PWS-E

PCW

Respondent DERBY WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 41995

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), Tex. Health & Safety Code § 341.033(d) and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision Nos. 3.a.ii. and 3.a.iii.

Violation Description Failed to comply with TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision Nos. 3.a.ii. and 3.a.iii. by failing to collect routine distribution water samples for coliform analysis and failing to provide public notification for the failure to collect routine distribution water samples. Specifically, at the time of the record review it was documented that the Respondent did not collect routine distribution samples for the months of June 2012 through April 2013, and did not provide public notification for the failure to collect routine distribution water samples for the months of June 2012 through February 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Failure to collect routine coliform samples and provide public notification could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 11 323 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,650

Eleven monthly events are 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 \$1,650

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$554 Violation Final Penalty Total \$2,723

This violation Final Assessed Penalty (adjusted for limits) \$2,723

Economic Benefit Worksheet

Respondent DERBY WATER SUPPLY CORPORATION
Case ID No. 41995
Reg. Ent. Reference No. RN101281178
Media Violation No. Public Water Supply
 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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	14-Jun-2012	31-Jan-2014	1.63	\$8	n/a	\$8

Notes for DELAYED costs

The delayed costs include the estimated amount to develop a protocol to ensure all necessary public notifications are provided in a timely manner, calculated from the effective date of TCEQ Default Order Docket No. 2011-1101-PWS-E to the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$275	1-Jun-2012	30-Apr-2013	1.83	\$25	\$275	\$300
Other (as needed)	\$225	1-Jul-2012	31-May-2013	1.83	\$21	\$225	\$246

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of 11 routine water samples (\$25 per sample) and provide public notice for the failure to sample (\$25 per notice), calculated for the months in which no samples were collected and during the period that a public notice was required.

Approx. Cost of Compliance

\$600

TOTAL

\$554

Screening Date 3-May-2013

Docket No. 2013-1270-PWS-E

PCW

Respondent DERBY WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 41995

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.110(e)(4)(A) and (f)(3) and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision Nos. 3.a.vi. and 3.c.

Violation Description

Failed to comply with TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision Nos. 3.a.vi. and 3.c. by failing 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, at the time of the record review, it was documented that the Respondent did not submit DLQORs for the second quarter of 2012 through the first quarter 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 4

323 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$200

Four quarterly events are 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 \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$330

This violation Final Assessed Penalty (adjusted for limits) \$330

Economic Benefit Worksheet

Respondent DERBY WATER SUPPLY CORPORATION
Case ID No. 41995
Reg. 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	\$45	14-Jun-2012	31-Jan-2014	1.63	\$4	n/a	\$4
Training/Sampling	\$100	14-Jun-2012	31-Jan-2014	1.63	\$8	n/a	\$8
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 amounts to 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 quarterly DLQORs, calculated from the effective date of TCEQ Default Order Docket No. 2011-1101-PWS-E 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]	\$88	10-Jul-2012	10-Apr-2013	1.67	\$7	\$88	\$95
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to submit the DLQORs (\$22 per report), calculated from the date the first report was due to the date the last report was due.

Approx. Cost of Compliance

\$233

TOTAL

\$107

Screening Date 3-May-2013 **Docket No.** 2013-1270-PWS-E **PCW**
Respondent DERBY WATER SUPPLY CORPORATION *Policy Revision 3 (September 2011)*
Case ID No. 41995 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101281178
Media [Statute] Public Water Supply
Enf. Coordinator Katy Montgomery

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c) and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision No. 3.a.i.
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 to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the year 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual			Percent 0.0%
Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 5.0%

Matrix Notes 100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 323 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$50

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 \$50

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

Estimated EB Amount \$65 **Violation Final Penalty Total** \$83

This violation Final Assessed Penalty (adjusted for limits) \$83

Economic Benefit Worksheet

Respondent DERBY WATER SUPPLY CORPORATION
Case ID No. 41995
Reg. 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)				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]	\$60	1-Jul-2012	3-May-2013	1.76	\$5	\$60	\$65
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the 2011 CCR to the customers of the Facility and to the TCEQ ($([\$0.50 \times 20 \text{ connections}] + \$50) \times 1 \text{ year}$), calculated from the due date to the screening date.

Approx. Cost of Compliance \$60

TOTAL \$65

Screening Date 3-May-2013

Docket No. 2013-1270-PWS-E

PCW

Respondent DERBY WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 41995

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.122(c)(2)(A) and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision No. 3.a.ii

Violation Description Failed to provide public notification for the failure to collect routine monitoring samples for the months of March through May 2012. Specifically, public notification was due to be posted between April 1, 2012 through August 31, 2012 and was not done.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3

323 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

Three single events are 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 \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$80

Violation Final Penalty Total \$248

This violation Final Assessed Penalty (adjusted for limits) \$248

Economic Benefit Worksheet

Respondent DERBY WATER SUPPLY CORPORATION
Case ID No. 41995
Reg. 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				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 of compliance are captured in the Economic Benefit for 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]	\$75	1-Apr-2012	31-Aug-2012	1.33	\$5	\$75	\$80
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to provide public notification (\$25 per notice) of the failure to sample, calculated for the period when public notification was due.

Approx. Cost of Compliance

\$75

TOTAL

\$80

Screening Date 3-May-2013

Docket No. 2013-1270-PWS-E

PCW

Respondent DERBY WATER SUPPLY CORPORATION

Policy Revision 3 (September 2011)

Case ID No. 41995

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101281178

Media [Statute] Public Water Supply

Enf. Coordinator Katy Montgomery

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.106(e) and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision Nos. 3.a.iv. and 3.a.v.

Violation Description Failed to provide the results of annual nitrate sampling to the Executive Director for the 2012 reporting period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

323 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$50

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 \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$83

This violation Final Assessed Penalty (adjusted for limits) \$83

Economic Benefit Worksheet

Respondent DERBY WATER SUPPLY CORPORATION
Case ID No. 41995
Reg. 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)	\$25	31-Dec-2012	31-Jan-2014	1.08	\$0	\$2	\$2
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	14-Jun-2012	31-Jan-2014	1.63	\$8	n/a	\$8

Notes for DELAYED costs
 The delayed cost includes the estimated amount to pay any outstanding lab fees (\$25 for nitrates) so that the lab will release all drinking water chemical analysis results, calculated from the last date of the monitoring period for which results were not provided to the estimated date of compliance. The other delayed cost includes the estimated amount to 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, calculated from the effective date of TCEQ Default Order Docket No. 2011-1101-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$125	TOTAL	\$10
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The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600671895, RN101281178, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600671895, DERBY WATER SUPPLY CORPORATION
Classification: NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101281178, DERBY WATER SUPPLY CORPORATION
Classification: NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: SOUTHEAST CORNER OF COUNTY ROAD 3415 AND COUNTY ROAD 3428, MOORE, FRIO COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0820016
WATER LICENSING LICENSE 0820016

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: February 12, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 12, 2008 to February 12, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Katy Montgomery

Phone: (210) 403-4016

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 06/14/2012 ADMINORDER 2011-1101-PWS-E (Findings Order-Default)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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.

Classification: Moderate

Citation: 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.

Classification: Moderate

Citation: 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.

Classification: Major

Citation: 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.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(e)

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.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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.

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.

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.

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 02/2011 - Failure to collect any routine monitoring sample(s).

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 03/2011 - Failure to collect any routine monitoring sample(s).

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 04/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Routine Monitoring Violation 02/2011 - Failure to post public notice for not collecting any routine monitoring sample(s).

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 05/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2010, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2010, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2009, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2009, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2008, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2008, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
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 2008, but a notice of violation was not sent.

Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

Description: 30 TAC Chapter 290, SubChapter F 290.110(f)(3)
 This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2007, but a notice of violation was not sent.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 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 2007, but a notice of violation was not sent.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
 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 2007, but a notice of violation was not sent.

Classification: Moderate

Citation: 2A TWC Chapter 5, SubChapter A 5.702
 30 TAC Chapter 290, SubChapter E 290.51(a)(3)

Description: Failed to pay annual public health service fees, including any associated late fees, for TCEQ Financial Administration Account No. 90940085 for Fiscal Year 2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 07/23/2012 (1053083) CN600671895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 05/2012 - Failure to collect any routine monitoring sample(s).
- 2 Date: 07/24/2012 (1053083) CN600671895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: MAR/2012 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 03/2012.
- 3 Date: 09/19/2012 (1053083) CN600671895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 06/2012 - Failure to collect any routine monitoring sample(s).
- 4 Date: 10/11/2012 (1053083) CN600671895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 07/2012 - Failure to collect any routine monitoring sample(s).
- 5 Date: 10/22/2012 (1053083) CN600671895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: APR/2012 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 04/2012.
- 6 Date: 11/06/2012 (1053083) CN600671895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 08/2012 - Failure to collect any routine monitoring sample(s).

- 7 Date: 11/12/2012 (1053083) CN600671895
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JUN/2012 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 06/2012.
- 8 Date: 12/06/2012 (1053083) CN600671895
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: JUL/2012 TCR Routine Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 07/2012.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine Monitoring Violation 09/2012 - Failure to collect any routine monitoring sample(s).

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
DERBY WATER SUPPLY
CORPORATION;
RN101281178**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-1270-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 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 60 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 an investigation conducted on August 23, 2012, and record reviews conducted on January 2, 2013, April 4, 2013, and June 10, 2013, TCEQ staff documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of June 2012 through April 2013, and failed to provide public notification for the failure to collect routine distribution water samples for the months of June 2012 through February 2013;
 - b. 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 the quarter. Specifically, Respondent did not submit DLQORs for the second quarter of 2012 through the first quarter of 2013;
 - c. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") for the year 2011 to each bill paying customer by July 1, 2012, and failed to submit to the TCEQ by July 1, 2012, 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;
 - d. Failed to post public notification for the failure to collect routine monitoring samples for the months of March 2012 through May 2012; and

- e. Failed to provide the results of annual nitrate sampling to the Executive Director for the 2012 reporting period.
3. Respondent received notice of the violations on or about June 29, 2013.
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 DERBY WATER SUPPLY CORPORATION" (the "EDPRP") in the TCEQ Chief Clerk's office on October 24, 2013.
5. By letter dated October 24, 2013, sent to Respondent's last known address via certified mail, return receipt requested, 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 October 26, 2013, as evidenced by the signature on the card.
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 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 collect routine distribution water samples for coliform analysis and failed to provide public notification for the failure, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A); and TCEQ Default Order Docket No 2011-1101-PWS-E, Ordering Provisions Nos. 3.a.ii. and 3.a.iii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to submit DLQORs 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); and TCEQ Default Order Docket No 2011-1101-PWS-E, Ordering Provision Nos. 3.a.vi. and 3.c.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to mail or directly deliver one copy of the CCR for the year 2011 to each bill paying customer by July 1, 2012, and failed to submit to the TCEQ by July 1, 2012 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) and TCEQ Default Order Docket No 2011-1101-PWS-E, Ordering Provision No. 3.a.i.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to provide public notification for the failure to collect routine monitoring samples, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A); and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provision No. 3.a.ii.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to provide the results of annual nitrate sampling to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(e); and TCEQ Default Order Docket No. 2011-1101-PWS-E, Ordering Provisions Nos. 3.a.iv. and 3.a.v.

7. 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.
8. 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.
9. 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.
10. An administrative penalty in the amount of three thousand four hundred sixty-five dollars (\$3,465.00) 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.
11. 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 three thousand four hundred sixty-five dollars (\$3,465.00) 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. 2013-1270-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 10 days after the effective date of this Order, Respondent shall:
 - i. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109 (Conclusion of Law No. 2); and
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the Facility,

including providing notification for failure to collect routine distribution samples for coliform analysis, in accordance with 30 TEX. ADMIN. CODE § 290.122 (Conclusion of Law No. 5).

- b. Within 15 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision 3.i., below, to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii.
- c. Within 30 days after the effective date of this Order, Respondent shall:
 - i. 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) (Conclusion of Law No. 6);
 - ii. Implement improvements of 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 Executive Director's requests or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.106 (Inorganic Contaminants) (Conclusion of Law No. 6);
 - iii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including timely submission of signed DLQORs, as required by 30 TEX. ADMIN. CODE § 290.110 (Conclusion of Law No. 3); and
 - iv. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2012 to each bill paying customer and make a good faith effort to deliver the CCR to non-bill paying customers, as required by 30 TEX. ADMIN. CODE § 290.274 (Conclusion of Law No. 4).
- d. Within 45 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Paragraph 3.i., below, to demonstrate compliance with Ordering Provisions Nos. 3.c.i. through 3.c.iv.
- e. Within 60 days after the effective date of this Order, Respondent shall submit to the Commission a copy of the CCR provided to Customers of the Facility 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 the compliance monitoring data, as required by 30 TEX. ADMIN. CODE § 290.274.
- f. Within 75 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.i, below, to demonstrate compliance with Ordering Provision No. 3.e.
- g. 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.

- h. Within 195 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.i, below, to demonstrate compliance with Ordering Provision No. 3.g.
- i. 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:

Lynn Bumguardner, Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

and:

Bob Patton, Jr., Section Manager
Public Drinking Water Section, 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 JIM SALLANS

STATE OF TEXAS

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COUNTY OF TRAVIS

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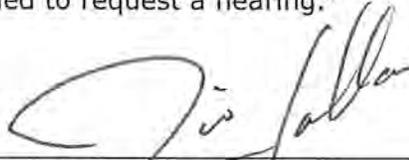
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"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 October 24, 2013.

The EDPRP was mailed to Respondent's last known address on October 24, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 26, 2013, 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."



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, 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 December, A.D. 2013.



Notary Signature

