

Richard J. Duda
RN105362529
Docket No. 2013-1472-PWS-E

Order Type:

Default Order

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

intersection of Farm-to-Market Road 986 and Four Post Lane, Terrell, Kaufman County

Type of Operation:

public water system

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$4,905.67 (2010-1023-PWS-E; Referred for collection);
\$3,963.96 (2011-1126-PWS-E; Referred for collection)
Past-Due Fees: \$582.35 (FA Acct. #91290050)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: April 11, 2014**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$12,428**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$12,428**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:** June 21, 2013**Date(s) of NOV(s):** See Compliance History - 20 related NOVs**Date(s) of NOE(s):** July 31, 2013

Richard J. Duda
RN105362529
Docket No. 2013-1472-PWS-E

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis, and failed to provide public notification of the failure to sample [TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and (f); and TCEQ Default Order 2010-1023-PWS-E, Ordering Provisions Nos. 3.a.i. and 3.a.ii.].
2. Failed to collect annual nitrates samples and provide the results to the Executive Director [30 TEX. ADMIN. CODE § 290.106(c) and (e)].
3. Failed to collect triennial asbestos, minerals, radionuclides, Stage I Disinfection Byproducts (“DBP”), and synthetic organic chemical (“SOC”) contaminants samples and provide the results to the Executive Director [30 TEX. ADMIN. CODE §§ 290.106(c) and (e), 290.107(c) and (e), 290.108(c) and (e), and 290.113(c) and (e)].
4. Failed to collect lead and copper samples and provide the results to the Executive Director [30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1)].
5. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91290050 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 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). This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
 - b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and to the Executive Director, including providing public notification regarding the failure to conduct routine coliform monitoring from September 2011 through March 2013 (violation 1);
 - c. Implement improvements to the Facility’s process, procedures, guidance, training, and/or oversight to ensure that all future nitrate, asbestos, mineral, radionuclide, DBP, and SOC contaminants samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period (violations 2 and 3);
 - d. Implement improvements to the Facility’s process, procedures, guidance, training, and/or oversight to ensure that all future routine lead and copper samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period (violation 4); and
 - e. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91290050 (violation 5).
2. Within 90 days begin complying with the lead and copper monitoring requirements by collecting the required number of initial and routine lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period (violation 4).
3. Submit written certification to demonstrate compliance:
 - a. Within 45 days for Technical Requirements Nos. 1.b., 1.c., 1.d., and 1.e.;
 - b. Within 225 days for Technical Requirement No. 1.a.; and
 - c. Within 465 days for Technical Requirement No. 2.

Richard J. Duda

RN105362529

Docket No. 2013-1472-PWS-E

Litigation Information

Date Petition(s) Filed: December 10, 2013; January 06, 2014

Date Green Card(s) Signed: Unclaimed; Unclaimed

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Ryan Rutledge, Litigation Division, (512) 239-3400

Lena Roberts, Litigation Division, (512) 239-3400

Isabel Segarra Treviño, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division, (210) 403-4076

TCEQ Regional Contact: Jeff Tate, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent: Richard J. Duda, 19367 Farm-toMarket 986, Terrell, Texas 75160-0130

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-Jul-2013			
	PCW	8-Aug-2013	Screening	8-Aug-2013	EPA Due 30-Jun-2012

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

CASE INFORMATION			
Enf./Case ID No.	39920	No. of Violations	5
Docket No.	2013-1472-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michaelle Garza
		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	\$4,800
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ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	100.0% Enhancement Subtotals 2, 3, & 7 \$4,800

Notes: Enhancement for 20 NOVs with same/similar violations and two default orders.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$2,845
 Approx. Cost of Compliance \$2,653
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	29.5%	Adjustment	\$2,828
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with the Violation Nos. 1 through 4.

Final Penalty Amount	\$12,428
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,428
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$12,428
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Screening Date 8-Aug-2013

Docket No. 2013-1472-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 3 (September 2011)

Case ID No. 39920

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

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>)	20	100%
	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	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 150%

>> 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 20 NOVs with same/similar violations and two default orders.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 150%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 8-Aug-2013 **Docket No.** 2013-1472-PWS-E **PCW**
Respondent Richard J. Duda *Policy Revision 3 (September 2011)*
Case ID No. 39920 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN105362529
Media [Statute] Public Water Supply
Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii), 290.122(c)(2)(A) and (f), Tex. Health & Safety Code § 341.033(d), and TCEQ Default Order Docket No. 2010-1023-PWS-E, Ordering Provision Nos. 3.a.i. and 3.a.ii.

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the months of September 2011 through May 2013 and failed to provide public notification of the failure to sample for the months of September 2011 through March 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 distribution coliform samples and provide public notification may expose the public to undetected contaminants that exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 23 692 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,450

Twenty-three monthly events are recommended, calculated from the effective date of TCEQ Default Order Docket No. 2010-1023-PWS-E, September 16, 2011, to the screening date, August 8, 2013.

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 \$3,450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,146

Violation Final Penalty Total \$8,933

This violation Final Assessed Penalty (adjusted for limits) \$8,933

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 39920
Reg. Ent. Reference No. RN105362529
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$100	16-Sep-2011	1-Apr-2014	2.54	\$13	n/a	\$13
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed costs include the estimated amount to update the Facility's operational guidance and conduct employee training to ensure that all necessary public notifications are provided in a timely manner, calculated from the effective date of TCEQ Default Order Docket No. 2010-1023-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]	\$525	1-Sep-2011	31-May-2013	2.67	\$70	\$525	\$595
Other (as needed)	\$475	1-Oct-2011	30-Jun-2013	2.67	\$63	\$475	\$538

Notes for AVOIDED costs: The avoided cost includes the estimated amount to collect routine distribution coliform samples (\$25 per sample x 21 samples), calculated for the months in which no samples were collected. The avoided cost includes estimated amount to provide public notification of the routine distribution coliform monitoring violations (\$25 per notice x 19 notices), calculated for the period when public notifications should have been provided.

Approx. Cost of Compliance	\$1,100	TOTAL	\$1,146
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Screening Date 8-Aug-2013

Docket No. 2013-1472-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 3 (September 2011)

Case ID No. 39920

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.106(c) and (e)

Violation Description

Failed to collect annual nitrates samples and provide the results to the Executive Director for the 2011 and 2012 monitoring periods.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct annual nitrate sampling could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$300

Two annual 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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$59

Violation Final Penalty Total \$777

This violation Final Assessed Penalty (adjusted for limits) \$777

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 39920
Reg. Ent. Reference No. RN105362529
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	24-Jun-2013	1-Apr-2014	0.77	\$4	n/a	\$4

Notes for DELAYED costs

The 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 samples are collected, submitted to the laboratory for analysis, and reported to the Executive Director, calculated from the date of the record review when the violation was documented 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]	\$25	1-Jan-2011	31-Dec-2011	1.92	\$2	\$25	\$27
Other (as needed)	\$25	1-Jan-2012	31-Dec-2012	1.92	\$2	\$25	\$27

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect nitrate samples and provide them to the laboratory for analysis (\$25 per sample), calculated for the monitoring periods in which sampling was not conducted.

Approx. Cost of Compliance

\$150

TOTAL

\$59

Screening Date 8-Aug-2013

Docket No. 2013-1472-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 3 (September 2011)

Case ID No. 39920

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.106(c) and (e), 290.107(c) and (e), 290.108(c) and (e), and 290.113(c) and (e)

Violation Description

Failed to collect triennial asbestos, minerals, radionuclides, Stage I Disinfection Byproducts ("DBP"), and synthetic organic chemical ("SOC") contaminants samples and provide the results to the Executive Director. Specifically, the Respondent did not collect asbestos, minerals, radionuclides, and DBP samples for the January 1, 2010 through December 31, 2012 monitoring period and SOC contaminants samples for the January 1, 2009 through December 31, 2011 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct triennial sampling for asbestos, minerals, radionuclides, DBP, and SOC could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 5

1460 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$750

Five 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 \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,319

Violation Final Penalty Total \$1,942

This violation Final Assessed Penalty (adjusted for limits) \$1,942

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 39920
Reg. Ent. Reference No. RN105362529
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

The delayed cost is included in the economic benefit associated with Violation No. 2.

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]	\$803	1-Jan-2010	31-Dec-2012	3.92	\$157	\$803	\$960
Other (as needed)	\$300	1-Jan-2009	31-Dec-2011	3.92	\$59	\$300	\$359

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect the following samples and provide them to the laboratory for analysis: asbestos (\$130), minerals (\$155), radionuclides (\$204), DBP (\$314), and SOC (\$300), calculated for the monitoring periods in which sampling was not conducted.

Approx. Cost of Compliance

\$1,103

TOTAL

\$1,319

Screening Date 8-Aug-2013

Docket No. 2013-1472-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 3 (September 2011)

Case ID No. 39920

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.117(c)(2) and (i)(1)

Violation Description

Failed to collect lead and copper samples and provide the results to the Executive Director for the July 1, 2011 through December 31, 2011 and July 1, 2012 through December 31, 2012 monitoring periods.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct lead and copper samples could result in persons served by the Facility being exposed to undetected contaminants, which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

366 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty \$300

Two semiannual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$321

Violation Final Penalty Total \$777

This violation Final Assessed Penalty (adjusted for limits) \$777

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 39920
Reg. Ent. Reference No. RN105362529
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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 cost is included in the economic benefit associated with Violation No. 2.

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]	\$150	1-Jul-2011	31-Dec-2011	1.42	\$11	\$150	\$161
Other (as needed)	\$150	1-Jul-2012	31-Dec-2012	1.42	\$11	\$150	\$161

Notes for AVOIDED costs

The avoided costs include the estimated amount for the Facility to collect and have analyzed initial and routine lead and copper samples (\$30 per sample x 5 samples per 6-month period), calculated for the monitoring periods in which sampling was not conducted.

Approx. Cost of Compliance

\$300

TOTAL

\$321

Screening Date 8-Aug-2013

Docket No. 2013-1472-PWS-E

PCW

Respondent Richard J. Duda

Policy Revision 3 (September 2011)

Case ID No. 39920

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105362529

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description

Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91290050 for Fiscal Years 2011 through 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

Percent 0.0%

Matrix Notes

Empty text box for Matrix Notes.

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent Richard J. Duda
Case ID No. 39920
Reg. Ent. Reference No. RN105362529
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

Not applicable.

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

Not applicable.

Approx. Cost of Compliance \$0

TOTAL \$0

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 CN603675992, RN105362529, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603675992, RICHARD J. DUDA **Classification:** N/A **Rating:** N/A

Regulated Entity: RN105362529, FOUR POST COMMUNITY WATER SYSTEM **Classification:** N/A **Rating:** N/A

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

CH Group: 14 - Other

Location: Intersection of Farm-to-Market Road 986 and Four Post Lane, Kaufman County

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION1290050

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

Date Compliance History Report Prepared: August 08, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 08, 2008 to August 08, 2013

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

Name: Michaëlle Garza

Phone: (210) 403-4076

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: 09/16/2011

ADMINORDER 2010-1023-PWS-E (Findings Order-Default)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.031(a)

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

Description: TCR Increase Monitoring Violation 11/2009 - Failure to collect all 5 distribution samples following a coliform found month.

Classification: Moderate

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

Description: TCR PN Increase Monitoring Violation 11/2009 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

Classification: Moderate

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

Description: 5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 12/2009 - 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 12/2009 - 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 01/2010 - 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 01/2010 - 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 02/2010 - 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 03/2010 - Failure to collect any routine monitoring sample(s).

Classification: Minor

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

Description: Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91290050 for Fiscal Year 2010.

2 Effective Date: 02/16/2012 ADMINORDER 2011-1126-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: Failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010. This system also failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third and fourth quarters of 2009, and the first and second quarters of 2010 but notices of violation have not been sent.

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: 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 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)

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

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

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.

Classification: Moderate

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

Description: Failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 May 25, 2010 (801647)

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: 09/19/2012 (1101221) CN603675992
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
Description: TCR Routine MR Violation 06/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.

- 2 Date: 10/11/2012 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 07/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 3 Date: 10/22/2012 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: APR/2012 TCR Routine MR 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 routine coliform monitoring for the month of 04/2012.
- 4 Date: 11/06/2012 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 08/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 5 Date: 11/12/2012 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: JUN/2012 TCR Routine MR 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 routine coliform monitoring for the month of 06/2012.
- 6 Date: 12/06/2012 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 09/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: JUL/2012 TCR Routine MR 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 routine coliform monitoring for the month of 07/2012.
- 7 Date: 01/10/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 10/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 8 Date: 01/22/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: AUG/2012 TCR Routine MR 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 routine coliform monitoring for the month of 08/2012.
- 9 Date: 01/29/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 11/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: SEPT/2012 TCR Routine MR 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 routine coliform monitoring for the month of 09/2012.
- 10 Date: 02/11/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 12/2012 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 11 Date: 02/21/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: OCT/2012 TCR Routine MR 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 routine coliform monitoring for the month of 10/2012.

- 12 Date: 03/13/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 01/2013 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 13 Date: 03/22/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: NOV/2012 TCR Routine MR 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 routine coliform monitoring for the month of 11/2012.
- 14 Date: 04/01/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 02/2013 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 15 Date: 04/25/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: DEC/2012 TCR Routine MR 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 routine coliform monitoring for the month of 12/2012.
- 16 Date: 05/09/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 03/2013 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 17 Date: 05/21/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: JAN/2013 TCR Routine MR 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 routine coliform monitoring for the month of 01/2013.
- 18 Date: 06/04/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 04/2013 - Failure to collect and/or submit any routine monitoring samples within the required timeline.
- 19 Date: 06/21/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: FEB/2013 TCR Routine MR 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 routine coliform monitoring for the month of 02/2013.
- 20 Date: 07/10/2013 (1101221) CN603675992
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine MR Violation 05/2013 - Failure to collect and/or submit any routine monitoring samples within the required timeline.

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
RICHARD J. DUDA;
RN105362529**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2013-1472-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 Richard J. Duda ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns a public water system located at the intersection of Farm-to-Market Road 986 and Four Post Lane in Kaufman County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 22 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on June 21, 2013, a TCEQ Central Office investigator documented that Respondent:
 - a. Failed to collect routine distribution water samples for coliform analysis for the months of September 2011 through May 2013; and failed to provide public notification of the failure to sample for the months of September 2011 through March 2013;
 - b. Failed to collect annual nitrates samples and provide the results to the Executive Director for the 2011 and 2012 monitoring periods;
 - c. Failed to collect triennial asbestos, minerals, radionuclides, Stage I Disinfection Byproducts ("DBP"), and synthetic organic chemical ("SOC") contaminants samples and provide the results to the Executive Director. Specifically, Respondent did not collect asbestos, minerals, radionuclides, and DBP samples for the January 1, 2010 through December 31, 2012 monitoring period and SOC contaminants samples for the January 1, 2009 through December 31, 2011 monitoring period;
 - d. Failed to collect lead and copper samples and provide the results to the Executive Director for the July 1, 2011 through December 31, 2011 and July 1, 2012 through December 31, 2012 monitoring periods; and
 - e. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91290050 for Fiscal Years 2011 through 2013;
3. Respondent received notice of the violations on or about August 5, 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 Richard J. Duda" (the "EDPRP") in the TCEQ Chief Clerk's office on December 10, 2013.
5. The EDPRP was mailed to Respondent's last known address on December 10, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on January 6, 2014.
7. By letter dated January 6, 2014, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
8. 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 TCEQ.
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 of the failure to sample, 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 (f); and TCEQ Default Order Docket No. 2010-1023-PWS-E, Ordering Provisions Nos. 3.a.i and 3.a.ii.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to collect annual nitrates samples and provide the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.106(c) and (e).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to collect triennial asbestos, minerals, radionuclides, DBP, and SOC contaminants samples and provide the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE §§ 290.106(c) and (e), 290.107(c) and (e), 290.108(c) and (e), and 290.113(c) and (e).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to collect lead and copper samples and provide the results to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2) and (i)(1).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91290050, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
7. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

8. As evidenced by Finding of Fact No. 8, 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(e) 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 TCEQ'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 twelve thousand four hundred twenty-eight dollars (\$12,428.00) 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 twelve thousand four hundred twenty-eight dollars (\$12,428.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Richard J. Duda; Docket No. 2013-1472-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. 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). This provision will be satisfied upon six consecutive months of compliant monitoring and reporting;
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and to the Executive Director, including providing public notification regarding the failure to conduct routine coliform monitoring from September 2011 through March 2013, in accordance with 30 TEX. ADMIN. CODE § 290.122 (Conclusion of Law No. 2);

- iii. Implement improvements to the Facility's process, procedures, guidance, training, and/or oversight to ensure that all future nitrate, asbestos, mineral, radionuclide, DBP, and SOC contaminants samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE §§ 290.106 (Inorganic Contaminants), 290.107 (Organic Contaminants), 290.108 (Radionuclides), and 290.113 (Stage 1 DBP) (Conclusion of Law Nos. 3 and 4);
- iv. Implement improvements to the Facility's process, procedures, guidance, training, and/or oversight to ensure that all future routine lead and copper samples are collected, analyzed by an approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with TEX. ADMIN. CODE § 290.117 (Conclusion of Law No. 5); and
- v. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91290050 (Conclusion of Law No. 6). The payment shall be sent with the notation "Richard J. Duda, Financial Administration Account No. 91290050" to:

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

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification as described in Ordering Provision No. 3.f. below to demonstrate compliance with Ordering Provision Nos. 3.a.ii., 3.a.iii., 3.a.iv., and 3.a.v.
- c. Within 90 days after the effective date of this Order, Respondent shall begin complying with the lead and copper monitoring requirements by collecting the required number of initial and routine lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117 (Conclusion of Law No. 5). This provision will be satisfied upon two compliant monitoring periods.
- d. Within 225 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f. below, to demonstrate compliance with Ordering Provision No. 3.a.i.
- e. Within 465 days after the effective date of this Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 3.f. below, to demonstrate compliance with Ordering Provision No. 3.c.
- 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:

James Beauchamp, 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 RYAN RUTLEDGE

STATE OF TEXAS

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COUNTY OF TRAVIS

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

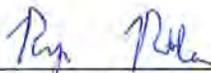
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Richard J. Duda" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 10, 2013.

The EDPRP was mailed to Respondent's last known address on December 10, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on January 6, 2014.

The EDPRP was mailed to Respondent's last known address on January 6, 2014, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

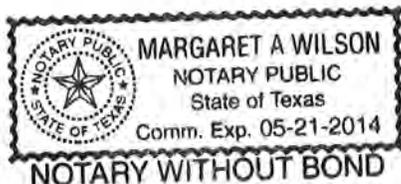
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

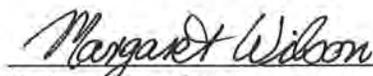


Ryan Rutledge, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Ryan Rutledge, 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 18th day of MARCH, A.D. 2014.





Notary Signature