

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0803-PWS-E TCEQ ID: RN105027924 CASE NO.: 33542
RESPONDENT NAME: VICKY BARNETT DBA VICKY'S PLAYCARE

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 205 County Road 4111, Cass County</p> <p>TYPE OF OPERATION: Day care center with a public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired June 22, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Water Enforcement Section, MC R-13, (210) 403-4033 TCEQ Regional Contact: Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174 Respondent: Ms. Vicky Barnett, Owner, Vicky's Playcare, 205 County Road 4111, Atlanta, Texas, 75551-3122 Respondent's Attorney: Not represented by counsel.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 9, 2007 and September 1, 2007</p> <p>Dates of NOEs Relating to this Case: May 16, 2007 and October 9, 2007</p> <p>Background Facts: The EDRP was filed October 1, 2007. The EDRP was mailed to the Respondent via certified mail, and via first-class mail, postage pre-paid. According to the return receipt "green card," the Respondent received notice of the EDRP on October 3, 2007. The EDFARP was filed December 18, 2007. The EDFARP was mailed to the Respondent via certified mail, and via first-class mail, postage pre-paid. According to the return receipt "green card," the Respondent received notice of the EDFARP on December 20, 2007. The Respondent has not filed an answer or requested a hearing.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PWS:</p> <p>1. Failed to provide a flow measuring device to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].</p> <p>2. Failed to provide disinfection facilities for microbiological control and distribution protection [30 TEX. ADMIN. CODE § 290.42(b)(1)].</p> <p>3. Failed to compile and maintain a facility operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(1)].</p> <p>4. Failed to provide the pressure tank with a pressure release device and an easily readable pressure gauge [30 TEX. ADMIN. CODE § 290.43(d)(2)].</p> <p>5. Failed to provide water system records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2)].</p>	<p>Total Assessed: \$9,067</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$9,067</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: NA</p> <p>Person Compliance History Classification: NA</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately: <ol style="list-style-type: none"> a. Begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions; b. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply; and c. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written sampling monitoring plan. 2. Within 10 days: <ol style="list-style-type: none"> a. Install and operate disinfection facilities to maintain an adequate disinfectant residual throughout the distribution system for the purpose of microbiological control and distribution protection; b. Provide a pressure release device and an easily readable pressure gauge on the pressure tank; and c. Begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility. 3. Within 15 days, submit written certification demonstrating compliance with Ordering Provisions Nos. 1 and 2. 4. Within 30 days: <ol style="list-style-type: none"> a. Provide a flow measuring device for the well pump discharge line; b. Begin conducting annual inspections of the pressure tank; and c. Employ a water works operator who holds an applicable and valid license. 5. Within 45 days, submit written certification demonstrating compliance with Ordering Provision No. 4.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>6. Failed to conduct an annual inspection of the water system's pressure tank [30 TEX. ADMIN. CODE § 290.46(m)(1)].</p> <p>7. Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements [30 Tex. Admin. Code § 290.121(a) and (b)].</p> <p>8. Failed to submit plans to the Executive Director for review and approval prior to the construction of a public water system [30 TEX. ADMIN. CODE § 290.46(a) and TEX. HEALTH & SAFETY CODE § 341.035(a)].</p> <p>9. Failed to ensure that the production, treatment, and distribution facilities at the public water supply system are under the direct supervision of a water works operator who holds an applicable and valid license [30 TEX. ADMIN. CODE § 290.46(e) and TEX. HEALTH & SAFETY CODE § 341.033(a)].</p> <p>10. Failed to provide a minimum pressure tank capacity of 220 gallons [30 TEX. ADMIN. CODE § 290.45(d)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].</p> <p>11. Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch throughout the distribution system under normal operating conditions [30 TEX. ADMIN. CODE § 290.46(r)].</p> <p>12. Failed to perform routine monthly bacteriological sampling of the public water supply during the months of August 2006, October 2006, December 2006, and January 2007 through August 2007, and failed to provide public notification of the failure to conduct monthly bacteriological sampling during the months of August 2006, October 2006 and January 2007 through August 2007 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B) and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p>		<p>6. Within 60 days:</p> <ul style="list-style-type: none"> a. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference; b. Begin compiling and maintain properly completed monthly water works operation reports and maintenance records, including but not limited to the amounts of chemicals used each week, volume of water treated each week, calibration records for equipment, and tank inspection results and make them available at the time of Commission inspections; and c. Submit as-built plans to the TCEQ for review and approval. <p>7. Within 90 days, provide a pressure tank capacity of 220 gallons at the Facility.</p> <p>8. Within 105 days, submit written certification demonstrating compliance with Ordering Provisions Nos. 6 and 7.</p>



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	14-May-2007	Screening	22-May-2007	EPA Due	1-Dec-2007
	PCW	30-Oct-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Vicky Barnett dba Vicky's Playcare
Reg. Ent. Ref. No.	RN105027924
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33542	No. of Violations	12
Docket No.	2007-0803-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	EnforcementTeam 2
Admin. Penalty \$	Limit Minimum \$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,850

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 55% Enhancement **Subtotals 2, 3, & 7** \$3,217

Notes: The penalty enhancement is due to 11 prior Notices of Violation for violations that are the same as or similar to the violation in the current enforcement action

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$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.

Total EB Amounts \$10,722 **Subtotal 6** \$0
Approx. Cost of Compliance \$17,550 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$9,067

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$9,067

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$9,067

DEFERRAL 0% Reduction **Adjustment** \$0

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 \$9,067

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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) 55%

>> 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

The penalty enhancement is due to 11 prior Notices of Violation for violations that are the same as or similar to the violation in the current enforcement action

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playc re

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code   290.41(c)(3)(N)

Violation Description

Failed to provide a flow measuring device to measure production yields and provide for the accumulation of water production data. Specifically, at the time of the investigation, it was documented that the system did not have a flow meter on the well pump discharge line.

Base Penalty

\$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent

5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

0%

Matrix Notes

Failure to have a flow measuring device prevents the system from obtaining accurate well production data and may result in the system not being able to provide a sufficient water supply.

Adjustment

\$950

\$50

Violation Events

Number of Violation Events

1

74

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty

\$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$29

Violation Final Penalty Total

\$77

This violation Final Assessed Penalty (adjusted for limits)

\$77

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	9-Mar-2007	1-Jan-2008	0.8	\$1	\$27	\$29
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide a flow meter for the well, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$29

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.42(b)(1)

Violation Description Failed to provide disinfection facilities for microbiological control and distribution protection.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

If the water supply does not maintain proper disinfection levels, customers of the water supply could be exposed to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

74 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$750

Three monthly events are recommended from the date of the investigation, March 9, 2007 to the date of screening, May 22, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$1,162

This violation Final Assessed Penalty (adjusted for limits) \$1,162

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
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
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Delayed Costs

Equipment	\$500	9-Mar-2007	10-Dec-2007	0.8	\$1	\$25	\$26
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide disinfection facilities for microbiological control and distribution protection, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$26

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.42(l)

Violation Description Failed to compile and maintain a facility operations manual for operator review and reference.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

74 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent: Vicky Barnett dba Vicky's Playcare
Case ID No.: 33542
Reg. Ent. Reference No.: RN105027924
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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	\$0	\$0
Record Keeping System	\$300	9-Mar-2007	1-Feb-2008	0.9	\$14	\$0	\$14
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for DELAYED costs

The delayed cost includes the amount required to compile and maintain a facility operations manual, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$14

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.43(d)(2)

Violation Description

Failed to provide the pressure tank with a pressure release device and an easily readable pressure gauge.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without a pressure release device and readable gauge, the pressure tank could result in non-detection of a tank defect causing loss of tank integrity and customers of the water supply could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

74 Number of violation days

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

Violation Base Penalty \$100

One quarterly event is recommended from the date of the investigation, March 9, 2007 to the date of screening, May 22, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	9-Mar-2007	10-Dec-2007	0.8	\$1	\$25	\$26
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to install a pressure release device and an easily readable gauge, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$26

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2)

Violation Description

Failed to provide water system records to Commission personnel at the time of the investigation. Specifically, at the time of the investigation, there were no records of volume of treatment chemicals used, volume of water treated, calibration records for the equipment, and tank inspection results.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
		x	

Percent 5%

Matrix Notes

50% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

74 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23

Violation Final Penalty Total \$77

This violation Final Assessed Penalty (adjusted for limits) \$77

Economic Benefit Worksheet

Respondent: Vicky Barnett dba Vicky's Playcare
Case ID No.: 33542
Reg. Ent. Reference No.: RN105027924
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	9-Mar-2007	1-Feb-2008	0.9	\$23	n/a	\$23
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to maintain system records, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL:

\$23

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(1)

Violation Description Failed to conduct an annual inspection of the water system's pressure tank.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Complete failure to perform an inspection of the pressure tank could result in non-detection of a tank defect causing loss of tank integrity and customers of the water supply could be exposed to significant amounts of contamination that would exceed levels that are protective of human health and environmental receptors.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 Number of violation days 365

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$250

One annual event is recommended for the annual inspection that was not performed, as documented during the March 9, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$210

Violation Final Penalty Total \$387

This violation Final Assessed Penalty (adjusted for limits) \$387

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$200	9-Mar-2006	9-Mar-2007	1.0	\$10	\$200	\$210
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to conduct the annual inspection on the water system's pressure tank, calculated for one year prior to the date of the investigation.

Approx. Cost of Compliance

\$200

TOTAL

\$210

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description Failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

1

74

Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	9-Mar-2007	10-Dec-2007	0.8	\$19	n/a	\$19
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to prepare and begin maintaining a chemical and microbiological monitoring plan for the distribution system, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 290.46(a) and Tex. Health & Safety Code § 341.035(a)

Violation Description Failed to submit plans to the Executive Director for review and approval prior to the construction of a public water system.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$900

\$100

Violation Events

1 74 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$63

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	9-Mar-2007	1-Feb-2008	0.9	\$3	\$60	\$63
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to prepare and submit plans for review and approval of the construction of a public water system, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$63

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e) and Tex. Health and Safety Code § 341.033(a)

Violation Description Failed to ensure that the production, treatment, and distribution facilities at the public water supply system are under the direct supervision of a water works operator who holds an applicable and valid license.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without a licensed water works operator managing the facility, improper management of the water supply could result in customers of the water supply being exposed to contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

74 Number of violation days

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

Violation Base Penalty \$750

Three monthly events are recommended from the date of the investigation, March 9, 2007 to the date of screening, May 22, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8,573

Violation Final Penalty Total \$1,162

This violation Final Assessed Penalty (adjusted for limits) \$1,162

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 9

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel	\$10,000	9-Mar-2007	1-Jan-2008	0.8	\$408	\$8,164	\$8,573
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the amount to employ a water works operator with an applicable and valid license to operate the production, treatment, and distribution facilities, calculated from the date of the investigation to the estimated date of compliance.

Approx. Cost of Compliance

\$10,000

TOTAL

\$8,573

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 10

Rule Cite(s)

30 Tex. Admin. Code § 290.45(d)(2)(A)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to provide a minimum pressure tank capacity of 220 gallons. Specifically, at the time of the investigation, the investigator noted that the pressure tank capacity was 80 gallons when the system is required to provide a pressure tank capacity of 220 gallons, which is 64% deficient.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without sufficient pressure tank capacity, the system could experience water outages and its ability to provide a safe and adequate water supply could be impaired.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

74 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$750

Three monthly events are recommended from the date of the investigation, March 9, 2007 to the date of screening, May 22, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$137

Violation Final Penalty Total \$1,162

This violation Final Assessed Penalty (adjusted for limits) \$1,162

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 10

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,000	9-Mar-2007	1-Mar-2008	1.0	\$7	\$131	\$137
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the amount to provide adequate pressure tank capacity, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$137

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code § 290.46(r)

Violation Description Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions. Specifically, the investigator noted that the water pressure level was recorded as low as 26 psi.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Without adequate minimum pressure throughout the distribution network, customers of the water system could be exposed to significant amounts of contaminants which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

74 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,000

Violation Final Penalty Total \$155

This violation Final Assessed Penalty (adjusted for limits) \$155

Economic Benefit Worksheet

Respondent Vicky Barnett dba Vicky's Playcare
Case ID No. 33542
Reg. Ent. Reference No. RN105027924
Media Public Water Supply
Violation No. 11

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	9-Mar-2007	9-Mar-2007	0.0	\$0	\$1,000	\$1,000

Notes for AVOIDED costs

The avoided cost includes the amount necessary for additional oversight that would have prevented inadequate pressure throughout the system, calculated from the date of the investigation to the date of noncompliance.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,000

Screening Date 22-May-2007

Docket No. 2007-0803-PWS-E

PCW

Respondent Vicky Barnett dba Vicky's Playcare

Policy Revision 2 (September 2002)

Case ID No. 33542

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN105027924

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 12

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

Violation Description

Failed to perform routine monthly bacteriological sampling of the public water supply during the months of August 2006, October 2006, December 2006, January 2007 through August 2007 and failure to provide public notification of the failure to conduct monthly bacteriological sampling during the months of August 2006, October 2006, January 2007 through August 2007.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform routine bacteriological sampling of the public water supply and failure to provide public notification could result in customers of the water supply being exposed to significant amounts of bacteriological contamination which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 11

336 Number of violation days

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

Violation Base Penalty \$2,750

Eleven monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$603

Violation Final Penalty Total \$4,262

This violation Final Assessed Penalty (adjusted for limits) \$4,262

Economic Benefit Worksheet

Respondent: Vicky Barnett dba Vicky's Playcare
Case ID No.: 33542
Reg. Ent. Reference No.: RN105027924
Media: Public Water Supply
Violation No.: 12

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$550	1-Aug-2006	1-Aug-2007	1.9	\$53	\$550	\$603
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs includes the amount to conduct monthly bacteriological sampling and provide public notification, calculated for the months when the violation occurred.

Approx. Cost of Compliance \$550

TOTAL \$603

Compliance History

Customer/Respondent/Owner-Operator: CN602018186 BARNETT, VICKY Classification: Rating:
Regulated Entity: RN105027924 VICKY'S PLAYCARE Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0340071
Location: 205 COUNTY ROAD 4111, CASS COUNTY
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: May 22, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 22, 2002 to May 22, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Epifanio Villarreal Phone: 210-403-4033

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
05/11/2007 (558874)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
VICKY BARNETT DBA VICKY'S
PLAYCARE,
RN105027924**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2007-0803-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 Vicky Barnett dba Vicky's Playcare ("Ms. Barnett").

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

FINDINGS OF FACT

1. Ms. Barnett owns and operates a day care center with a public water supply located at 205 County Road 4111, in Cass County, Texas (the "Facility").
2. The Facility has one service connection and serves at least 25 people per day for at least 60 days per year, and provides water for human consumption.
3. During an inspection on March 9, 2007, a TCEQ Tyler Regional Office investigator documented that Ms. Barnett:
 - a. Failed to provide a flow measuring device to measure production yields and provide for the accumulation of water production data;
 - b. Failed to provide disinfection facilities for microbiological control and distribution protection;

- c. Failed to compile and maintain a facility operations manual for operator review and reference;
 - d. Failed to provide the pressure tank with a pressure release device and an easily readable gauge;
 - e. Failed to provide water system records to commission personnel at the time of the investigation;
 - f. Failed to conduct an annual inspection of the water system's pressure tank;
 - g. Failed to maintain an up to date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements;
 - h. Failed to submit plans to the Executive Director for review and approval prior to construction of a public water system;
 - i. Failed to ensure that the production, treatment, and distribution facilities at the public water supply system are under the direct supervision of a water works operator who holds an applicable and valid license;
 - j. Failed to provide a minimum pressure tank capacity of 220 gallons;
 - k. Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions;
4. During record review conducted on September 1, 2007, a TCEQ Central Office investigator documented that Ms. Barnett failed to perform routine monthly bacteriological sampling of the public water supply during the months of August 2006, October 2006, December 2006, and January 2007 through August 2007 and failed to provide public notification of the failure to conduct monthly bacteriological sampling during the months of August 2006, October 2006, and January 2007 through August 2007.
 5. Ms. Barnett received notices of the violations on or about May 21, 2007 and October 14, 2007.
 6. 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 Vicky Barnett dba Vicky's Playcare" (the "EDPRP") in the TCEQ Chief Clerk's office on October 1, 2007.

7. By letter dated October 1, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Barnett with notice of the EDPRP. According to the return receipt "green card," Ms. Barnett received notice of the EDPRP on October 3, 2007, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Vicky Barnett dba Vicky's Playcare" (the "EDFARP") in the TCEQ Chief Clerk's office on December 18, 2007.
9. By letter dated December 18, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Barnett with notice of the EDFARP. According to the return receipt "green card," Ms. Barnett received notice of the EDFARP on December 20, 2007, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Ms. Barnett received notice of the EDPRP and EDFARP, provided by the Executive Director. Ms. Barnett failed to file an answer to the EDPRP or EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Barnett is subject to the jurisdiction of the TCEQ pursuant to TEXAS HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Ms. Barnett failed to provide a flow measuring device to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N);
3. As evidenced by Finding of Fact No. 3.b., Ms. Barnett failed to provide disinfection facilities for microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1);

4. As evidenced by Finding of Fact No. 3.c., Ms. Barnett failed to compile and maintain a facility operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(1);
5. As evidenced by Finding of Fact No. 3.d., Ms. Barnett failed to provide the pressure tank with a pressure release device and an easily readable gauge, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(2);
6. As evidenced by Finding of Fact No. 3.e., Ms. Barnett failed to provide water system records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2);
7. As evidenced by Finding of Fact No. 3.f., Ms. Barnett failed to conduct an annual inspection of the water system's pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1);
8. As evidenced by Finding of Fact No. 3.g., Ms. Barnett failed to maintain an up-to-date chemical and microbiological monitoring plan that identifies all sampling locations, describes the sampling frequency, and specifies the analytical procedures and laboratories that the public water system will use to comply with the monitoring requirements, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b);
9. As evidenced by Finding of Fact No. 3.h., Ms. Barnett failed to submit plans to the Executive Director for review and approval prior to the construction of a public water system, in violation of 30 TEX. ADMIN. CODE § 290.46(a) and TEX. HEALTH & SAFETY CODE § 341.035(a);
10. As evidenced by Finding of Fact No. 3.i., Ms. Barnett failed to ensure that the production, treatment, and distribution facilities at the public water supply system are under the direct supervision of a water works operator who holds an applicable and valid license, in violation of 30 TEX. ADMIN. CODE § 290.46(e) and TEX. HEALTH & SAFETY CODE § 341.033(a);
11. As evidenced by Finding of Fact No. 3.j., Ms. Barnett failed to provide a minimum pressure tank capacity of 220 gallons, in violation of 30 TEX. ADMIN. CODE § 290.45(d)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c);
12. As evidenced by Finding of Fact No. 3.k., Ms. Barnett failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions, in violation of 30 TEX. ADMIN. CODE § 290.46(r);

13. As evidenced by Finding of Fact No. 4., Ms. Barnett failed to perform routine monthly bacteriological sampling of the public water supply during the months of August 2006, October 2006, December 2006, and January 2007 through August 2007; and failed to provide public notification of the failure to conduct monthly bacteriological sampling during the months of August 2006, October 2006 and January 2007 through August 2007, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B), and TEX. HEALTH & SAFETY CODE § 341.033(d).
14. As evidenced by Finding of Fact Nos. 6, 7, 8 and 9, the Executive Director timely served Ms. Barnett with proper notice of the EDPRP and EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
15. As evidenced by Finding of Fact No. 10, Ms. Barnett failed to file a timely answer to the EDPRP or EDFARP, 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 Ms. Barnett and assess the penalty recommended by the Executive Director.
16. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Ms. Barnett for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
17. An administrative penalty in the amount of nine thousand sixty-seven dollars (\$9,067.00) 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(b).
18. 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. Ms. Barnett is assessed an administrative penalty in the amount of nine thousand sixty-seven dollars (\$9,067.00) for violations of TEX. HEALTH & SAFETY CODE ch. 341 and rules of the TCEQ. The payment of this administrative penalty and Ms. Barnett's compliance with all the

terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Vicky Barnett dba Vicky's Playcare; Docket No. 2007-0803-PWS-E" to:

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

2. Ms. Barnett shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order:
 - i. Begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - ii. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - iii. Begin performing monthly bacteriological sampling utilizing samples which are representative of the Facility's water system, according to the Facility's written sampling monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.109.
 - b. Within 10 days after the effective date of this Order:
 - i. Install and operate disinfection facilities to maintain an adequate disinfectant residual throughout the distribution system for the purpose of microbiological control and distribution protection, in accordance with 30 TEX. ADMIN. CODE § 290.42;
 - ii. Provide a pressure release device and an easily readable pressure gauge on the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.43; and

- iii. Begin maintaining an up-to-date chemical and microbiological monitoring plan for the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.121.
- c. Within 15 days after the effective date of this Order, submit written certification as described below in Ordering Provision 2.h., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a. and b.
- d. Within 30 days after the effective date of this Order:
 - i. Provide a flow measuring device for the well pump discharge line, in accordance with 30 TEX. ADMIN. CODE § 290.41;
 - ii. Begin conducting annual inspections of the pressure tank, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Employ a water works operator who holds an applicable and valid license, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- e. Within 45 days after the effective date of this Order, submit written certification as described below in Ordering Provision 2.h., and include supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.d.
- f. Within 60 days after the effective date of this Order:
 - i. Compile and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42;
 - ii. Begin compiling and maintain properly completed monthly water works operation reports and maintenance records, including but not limited to the amounts of chemicals used each week, volume of water treated each week, calibration records for equipment, and tank inspection results and make them available at the time of Commission inspections, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - iii. Submit as-built plans to the Executive Director for review and approval, in accordance with 30 TEX. ADMIN. CODE § 290.46.

The plans shall be submitted to:

Water Supply Division
Utility Creation & Plan Review Team, MC 153
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

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

- g. Within 90 days after the effective date of this Order, provide a pressure tank capacity of 220 gallons at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- h. Within 105 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.f. and g. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Ms. Barnett. Ms. Barnett is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. 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 Ms. Barnett shall be made in writing to the Executive Director. Extensions are not effective until Ms. Barnett receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 Ms. Barnett if the Executive Director determines that Ms. Barnett has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Benjamin O. Thompson. 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, I 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 Vicky Barnett dba Vicky’s Playcare” (the “EDPRP”) with the Office of the Chief Clerk on October 1, 2007.

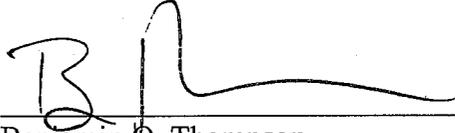
I sent the EDPRP to Ms. Barnett at her last known address on October 1, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Ms. Barnett received notice of the EDPRP on October 3, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Vicky Barnett dba Vicky’s Playcare” (the “EDFARP”) with the Office of the Chief Clerk on December 18, 2007.

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Affidavit of Benjamin O. Thompson

More than 20 days have elapsed since Ms. Barnett received notice of the EDPRP and EDFARP. Ms. Barnett failed to file an answer to the EDPRP or EDFARP, failed to request a hearing, and failed to schedule a settlement conference”.



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

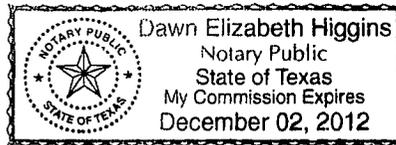
Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 8th day of May, A.D., 2009.



Notary Stamp

Notary Signature



NOTARY WITHOUT BOND