

**Executive Summary – Enforcement Matter – Case No. 41263**  
**Beverly Minaldi dba Timberlane Water System**  
**RN101182624**  
**Docket No. 2011-0350-PWS-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PWS

**Small Business:**

No

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

Timberlane Water System, near the end of Farm-to-Market Road 2928, Hemphill, Sabine County

**Type of Operation:**

Public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 10, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,878

**Amount Deferred for Expedited Settlement:** \$375

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$103

**Total Due to General Revenue:** \$1,400

Payment Plan: 14 payments of \$100 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 41263  
Beverly Minaldi dba Timberlane Water System  
RN101182624  
Docket No. 2011-0350-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 11, 2011

**Date(s) of NOE(s):** February 11, 2011

***Violation Information***

1. Failed to comply with the Maximum Contaminant Level for total coliform [30 TEX. ADMIN. CODE § 290.109(f)(3)].
2. Failed to collect at least five distribution coliform samples for the months following a total coliform-positive sample result [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].
3. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting; and
- b. Within 180 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

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

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 41263**  
**Beverly Minaldi dba Timberlane Water System**  
**RN101182624**  
**Docket No. 2011-0350-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Epifanio Villarreal, Enforcement Division,  
Enforcement Team 2, MC R-14, (361) 825-3425; Laurie Eaves, Enforcement Division,  
MC 219, (512) 239-4495

**TCEQ SEP Coordinator:** N/A

**Respondent:** Beverly Minaldi, Owner, Timberlane Water System, P.O. Box 1611,  
Nederland, Texas 77627

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	7-Mar-2011	<b>Screening</b>	7-Mar-2011	<b>EPA Due</b>	31-Aug-2011
	<b>PCW</b>	7-Mar-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Beverly Minaldi dba Timberlane Water System		
<b>Reg. Ent. Ref. No.</b>	RN101182624		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41263	<b>No. of Violations</b>	3
<b>Docket No.</b>	2011-0350-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,250**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **27.0%** Enhancement **Subtotals 2, 3, & 7** **\$337**

Notes: Enhancement for five NOV's with same/similar violations and one NOV with dissimilar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$291**  
 Approx. Cost of Compliance **\$275**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,587**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **18.3%** **Adjustment** **\$291**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended to recover avoided costs of compliance.

**Final Penalty Amount** **\$1,878**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,878**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$375**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,503**

**Screening Date** 7-Mar-2011

**Docket No.** 2011-0350-PWS-E

**PCW**

**Respondent** Beverly Minaldi dba Timberlane Water System

Policy Revision 2 (September 2002)

**Case ID No.** 41263

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101182624

**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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 27%

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

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 27%

Screening Date 7-Mar-2011

Docket No. 2011-0350-PWS-E

PCW

Respondent Beverly Minaldi dba Timberlane Water System

Policy Revision 2 (September 2002)

Case ID No. 41263

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101182624

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(f)(3)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of June 2010 and November 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

Matrix Notes: The presence of coliform bacteria is an indication that the water is contaminated with significant amounts of contaminants that do not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 60

Table for event frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$500

Two monthly events are recommended for the months in which the exceedances occurred.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x), and Notes.

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$751

This violation Final Assessed Penalty (adjusted for limits) \$751

## Economic Benefit Worksheet

**Respondent** Beverly Minaldi dba Timberlane Water System  
**Case ID No.** 41263  
**Reg. Ent. Reference No.** RN101182624  
**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
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Jun-2010	30-Nov-2010	1.42	\$7	\$100	\$107
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount for additional oversight to properly treat the water to prevent the presence of coliform, calculated for the months in which the exceedances occurred.

Approx. Cost of Compliance \$100

**TOTAL** \$107

Screening Date 7-Mar-2011

Docket No. 2011-0350-PWS-E

PCW

Respondent Beverly Minaldi dba Timberlane Water System

Policy Revision 2 (September 2002)

Case ID No. 41263

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101182624

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(F)

Violation Description Failed to collect at least five distribution coliform samples for the months following a total coliform-positive sample result for the month of July 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Failure to collect water samples for coliform analysis may expose the public to a significant amount of undetected contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$131

Violation Final Penalty Total \$376

This violation Final Assessed Penalty (adjusted for limits) \$376

## Economic Benefit Worksheet

**Respondent** Beverly Minaldi dba Timberlane Water System  
**Case ID No.** 41263  
**Reg. Ent. Reference No.** RN101182624  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Jul-2010	31-Jul-2010	1.00	\$6	\$125	\$131
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect the appropriate number of water samples (5 total) the month following a total-coliform positive sample result (\$25 per sample).

Approx. Cost of Compliance	\$125	<b>TOTAL</b>	\$131
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Screening Date 7-Mar-2011

Docket No. 2011-0350-PWS-E

PCW

Respondent Beverly Minaldi dba Timberlane Water System

Policy Revision 2 (September 2002)

Case ID No. 41263

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101182624

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

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

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of September and October 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
Failure to collect coliform monitoring samples could expose consumers to a significant amount of undetected contaminants which would exceed levels protective of human health.				0%

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 60 Number of violation days

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

Violation Base Penalty \$500

Two monthly events are recommended, calculated for the months in which no routine samples were collected.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$53

Violation Final Penalty Total \$751

This violation Final Assessed Penalty (adjusted for limits) \$751

# Economic Benefit Worksheet

**Respondent** Beverly Minaldi dba Timberlane Water System  
**Case ID No.** 41263  
**Reg. Ent. Reference No.** RN101182624  
**Media** Public Water Supply  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$50	30-Sep-2010	31-Oct-2010	1.00	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of two routine samples (\$25 per sample), calculated for the months in which no samples were collected.

Approx. Cost of Compliance \$50

**TOTAL** \$53

# Compliance History

Customer/Respondent/Owner-Operator:	CN601838089	MINALDI, BEVERLY	Classification:	Rating:
Regulated Entity:	RN101182624	TIMBERLANE WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY		REGISTRATION	2020054
Location:	THE END OF FM 2928, HEMPHILL, SABINE COUNTY, TEXAS			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	March 07, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 07, 2006 to March 07, 2011			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Epi Villarreal Phone: (361) 825-3425

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	08/05/2008	(682367)
2	05/08/2009	(741462)
3	08/18/2010	(848784)
4	01/18/2011	(887279)
5	01/19/2011	(891904)
6	01/19/2011	(891924)
7	01/19/2011	(891939)
8	01/19/2011	(891965)
9	03/01/2011	(892201)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	08/04/2008	(682367)	CN601838089
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(v)		
Description:	Failure to have electrical wiring securely installed in compliance with a local or national electric code. Minor 3D		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)		
Description:	Failure to maintain records of the amount of water treated each week.		
Self Report?	NO		Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(III)  
 Description: Failure to keep records of the amount of chemical used each week.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iv)  
 Description: Failure to maintain complete records of the dates dead-end mains were flushed.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(iii)  
 Description: Failure to keep records of customer complaints.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 Description: Failure to have an up-to-date chemical and microbiological monitoring plan.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)  
 Description: Failure to notify the executive director prior to making any significant change or addition to the water system's production, treatment, storage, pressure maintenance, or distribution facilities.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the fence at the water plant. Minor 3D  
 Date: 07/02/2010 (887279) CN601838089  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 Description: TCR MCL Violation 06/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.  
 Date: 08/31/2010 (891904) CN601838089  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: TCR IC Routine Monitoring Violation 07/2010 - Failure to collect all 5 increase routine monitoring samples following a coliform found month.  
 Date: 10/26/2010 (891924) CN601838089  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).  
 Date: 11/15/2010 (891965) CN601838089  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 Description: TCR MCL Violation 11/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.  
 Date: 12/07/2010 (891939) CN601838089  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

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  
BEVERLY MINALDI DBA  
TIMBERLANE WATER SYSTEM  
RN101182624**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-0350-PWS-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Beverly Minaldi dba Timberlane Water System ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water system near the end of Farm-to-Market Road 2928, Hemphill, Sabine County, Texas (the "Facility") that has approximately 42 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 16, 2011.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Eight Hundred Seventy-Eight Dollars (\$1,878) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Three Dollars (\$103)

of the administrative penalty and Three Hundred Seventy-Five Dollars (\$375) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty. The remaining amount of One Thousand Four Hundred Dollars (\$1,400) of the administrative penalty shall be payable in 14 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3), as documented during a record review conducted on January 11, 2011.
2. Failed to collect at least five distribution coliform samples for the months following a total coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F), as documented during a record review conducted on January 11, 2011.

3. Failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d), as documented during a record review conducted on January 11, 2011.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Beverly Minaldi dba Timberlane Water System, Docket No. 2011-0350-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order, 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. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting; and
  - b. Within 180 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 fines 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:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Szellin  
For the Executive Director

6/16/2011  
May 10, 2011  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Beverly Minaldi  
Signature

05/10/11  
Date

Beverly Minaldi  
Name (Printed or typed)  
Authorized Representative of  
Beverly Minaldi dba Timberlane Water System

OWNER  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.