

Executive Summary – Enforcement Matter – Case No. 41653  
MS. MOLLY'S LLC.  
RN104909882  
Docket No. 2011-0764-PWS-E

**Order Type:**  
Default Order

**Findings Order Justification:**  
N/A

**Media:**  
PWS

**Small Business:**  
N/A

**Location(s) Where Violation(s) Occurred:**  
1005 County Road 107, Columbus, Colorado County

**Type of Operation:**  
public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: \$6,981.60 (2009-1443-PWS-E; referred to the Attorney General)  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** December 30, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$3,476  
**Amount Deferred for Expedited Settlement:** N/A  
**Amount Deferred for Financial Inability to Pay:** N/A  
**Total Paid to General Revenue:** \$0  
**Total Due to General Revenue:** \$3,476

**Compliance History Classifications:**

Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

MS. MOLLY'S LLC.

RN104909882

Docket No. 2011-0764-PWS-E

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** April 27, 2011  
**Date(s) of NOV(s):** See Compliance History – 19 related NOVs  
**Date(s) of NOE(s):** May 3, 2011

***Violation Information***

Failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples [TEX. HEALTH & SAFETY CODE 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TCEQ Default Order Docket No. 2009-1443-PWS-E, Ordering Provision No. 2.a.ii].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. Within 10 days:
  - a. Develop and implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and
  - b. 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 compliant monitoring and reporting.
2. Submit written certification to demonstrate compliance:
  - c. Within 25 days for Technical Requirement No. 1.a.; and
  - d. Within 195 days for Technical Requirement No. 1.b.

***Litigation Information***

**Date Petition(s) Filed:** August 26, 2011 (EDPRP); October 12, 2011(EDFARP)  
**Date(s) Green Card(s) Signed:** Unclaimed (Both)  
**Date(s) Answer(s) Filed:** N/A

***Contact Information***

**TCEQ Attorneys:** Rudy Calderon, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Stephen Thompson, Water Enforcement Section, (512) 239-2558  
**TCEQ Regional Contact:** Elston Johnson, Austin Regional Office, (512) 239-6266  
**Respondent:** Angie Galvan, Member, Ms. Molly's LLC, 21034 Northern Colony Court, Katy, Texas 77449  
**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>	9-May-2011	<b>Screening</b>	13-May-2011	<b>EPA Due</b>	30-Jun-2011
	<b>PCW</b>	18-May-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Ms. Molly's LLC
<b>Reg. Ent. Ref. No.</b>	RN104909882
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	41653	<b>No. of Violations</b>	1
<b>Docket No.</b>	2011-0764-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	120.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,800
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<b>Notes</b>	Enhancement for 19 NOVs with same/similar violations and one default order.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$183	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$265	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	5.3%	<b>Adjustment</b>	\$176
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement recommended to recover the avoided costs of compliance for violation no. 1.
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<b>Final Penalty Amount</b>	\$3,476
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,476
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$3,476
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**Screening Date** 13-May-2011

**Docket No.** 2011-0764-PWS-E

**PCW**

**Respondent** Ms. Molly's LLC

*Policy Revision 2 (September 2002)*

**Case ID No.** 41653

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN104909882

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Amanda Henry

### 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> )	19	95%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 120%

**>> 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 19 NOVs with same/similar violations and one default order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 120%

Screening Date 13-May-2011

Docket No. 2011-0764-PWS-E

PCW

Respondent Ms. Molly's LLC

Policy Revision 2 (September 2002)

Case ID No. 41653

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104909882

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

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) and TCEQ Default Order Docket No. 2009-1443-PWS-E, Ordering Provision No. 2.a.ii

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of October 2010 through March 2011 and failed to provide public notification of the failure to collect routine samples for the months of October 2010 through December 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential	x				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Failure to properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 6 180 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,500

Six monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$183

Violation Final Penalty Total \$3,476

This violation Final Assessed Penalty (adjusted for limits) \$3,476

## Economic Benefit Worksheet

**Respondent** Ms. Molly's LLC  
**Case ID No.** 41653  
**Req. Ent. Reference No.** RN104909882  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	16-Oct-2010	15-Feb-2012	1.33	\$7	n/a	\$7
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

The delayed costs include the estimated amount to implement procedures, to ensure public notifications are provided when necessary, calculated from the effective date of TCEQ Default Order Docket No. 2009-1443-PWS-E to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	16-Oct-2010	31-Mar-2011	1.37	\$10	\$150	\$160
Other (as needed)	\$15	1-Feb-2011	31-Mar-2011	1.08	\$1	\$15	\$16

**Notes for AVOIDED costs**

The avoided costs include the estimated amount necessary (\$25 x 6 samples + \$5 x 3 public notices) to conduct routine coliform sampling and provide public notification. The date required to collect the distribution samples is the date the first sample was due after the effective date of TCEQ Default Order Docket No. 2009-1443-PWS-E. The date calculated for public notification is the time period that public notification was required.

Approx. Cost of Compliance \$265

**TOTAL** \$183

# Compliance History

Customer/Respondent/Owner-Operator: CN603506270 Ms. Molly's LLC Classification: Rating:  
Regulated Entity: RN104909882 MS MOLLYS Classification: Site Rating:  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0450092  
Location: 1005 COUNTY ROAD 107, COLUMBUS, TX, 78934  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: May 12, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 12, 2006 to May 12, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Amanda Henry Phone: (713) 767-3672

## 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/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.

**Effective Date: 10/16/2010**

**ADMINORDER 2009-1443-PWS-E**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate



Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR PN Routine Monitoring Violation 04/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 05/2008 - Failure to collect any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR PN Routine Monitoring Violation 05/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

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	11/27/2007	(599447)	8	08/04/2009	(763027)	15	08/05/2009	(764589)
2	07/17/2009	(762018)	9	08/04/2009	(763034)	16	04/27/2011	(914539)
3	08/04/2009	(762732)	10	08/04/2009	(763037)	17	04/28/2011	(914604)
4	08/04/2009	(762738)	11	08/04/2009	(763041)	18	04/28/2011	(914644)
5	08/04/2009	(763002)	12	08/04/2009	(763046)	19	04/28/2011	(914651)
6	08/04/2009	(763013)	13	08/04/2009	(763053)	20	04/28/2011	(914659)
7	08/04/2009	(763022)	14	08/04/2009	(763061)	21	05/05/2011	(914926)
						22	04/29/2011	(914997)

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

**1. Date: 04/29/2008 (762018) CN603506270**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**2. Date: 07/31/2008 (762732) CN603506270**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 06/2008 - Failure to collect any routine monitoring sample(s).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR PN Routine Monitoring Violation 06/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**3. Date: 09/03/2008 (762738) CN603506270**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 07/2008 - Failure to collect any routine monitoring sample(s).  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR PN Routine Monitoring Violation 07/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**4. Date: 10/10/2008 (763002) CN603506270**

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: TCR Routine Monitoring Violation 08/2008 - Failure to collect any routine monitoring sample(s).  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR PN Routine Monitoring Violation 08/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**5. Date: 11/19/2008 (763013) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**6. Date: 12/09/2008 (763022) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**7. Date: 01/13/2009 (763027) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**8. Date: 03/09/2009 (763034) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 12/2008 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR PN Routine Monitoring Violation 12/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

**9. Date: 04/07/2009 (763037) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

**10. Date: 05/06/2009 (763041) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)  
Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

**11. Date: 05/26/2009 (763046) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

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

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 03/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

**12. Date: 06/15/2009 (763053) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 04/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

**13. Date: 07/14/2009 (763061) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

**14. Date: 10/26/2010 (914997) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 09/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 09/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

**15. Date: 12/07/2010 (914539) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 10/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 10/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

**16. Date: 01/04/2011 (914604) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

Description: TCR Routine Monitoring Violation 11/2010 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)

Description: TCR PN Routine Monitoring Violation 11/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

**17. Date: 02/11/2011 (914644) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)

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

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: TCR PN Routine Monitoring Violation 12/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

**18. Date: 03/10/2011 (914651) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 01/2011 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: TCR PN Routine Monitoring Violation 01/2011 - Failure to post public notice for not collecting any routine monitoring sample(s).

**19. Date: 03/31/2011 (914659) CN603506270**

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)  
Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(B)  
Description: TCR PN Routine Monitoring Violation 02/2011 - Failure to post public notice for not collecting 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  
MS. MOLLY'S LLC;  
RN104909882**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-0764-PWS-E**

At its \_\_\_\_\_ agenda meeting, 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 Ms. Molly's LLC ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a public water system located at 1005 County Road 107 in Columbus, Colorado County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on April 27, 2011, a TCEQ Central Office investigator documented that Respondent failed to collect routine distribution water samples for coliform analysis for the months of October 2010 through March 2011 and failed to provide public notification of the failure to collect routine samples for the months of October 2010 through December 2010.
3. Respondent received notice of the violations on or about May 8, 2011.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ms. Molly's LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on August 26, 2011.
5. By letter dated August 26, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.

6. 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 Ms. Molly's LLC" (the "EDFARP") in the TCEQ Chief Clerk's office on October 12, 2011.
7. By letter dated October 12, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDFARP.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP and EDFARP. Respondent failed to file an answer and failed to request a hearing.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to collect routine samples, in violation of TEX. HEALTH & SAFETY CODE § 341.033(d); 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(B); and TCEQ Default Order Docket No. 2009-1443-PWS-E, Ordering Provision No. 2.a.ii.
3. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of three thousand four hundred seventy-six dollars (\$3,476.00) 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.

8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

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

1. Respondent is assessed an administrative penalty in the amount of three thousand four hundred seventy-six dollars (\$3,476.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Ms. Molly's LLC; Docket No. 2011-0764-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Order, Respondent shall:
    - i. Develop and implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
    - ii. 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 compliant monitoring and reporting.
  - b. Within 25 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.d., below, to demonstrate compliance with Ordering Provision No. 3.a.i.
  - c. Within 195 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.d., below, to demonstrate compliance with Ordering Provision No. 3.a.ii.

- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Section Manager  
Public Drinking Water Section, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78705-3011

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

