

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44540
Norman Barnett d/b/a Sand Bar Estates
RN101215382
Docket No. 2012-1397-UTL-E

Order Type:

Default Order

Media:

UTL

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1516 Grace Lane, Highlands, Harris County

Type of Operation:

public water utility

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$5,470.52 (1999-1093-PWS-E; Returned Uncollectable)
\$696.89 (2008-1620-PWS-E; Referred to the AG)
Past-Due Fees: \$1,706.82 (Account No. 91010204)
Other: None
Interested Third-Parties: None

Texas Register Publication Date: May 24, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$1,575

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$1,575

Compliance History Classifications:

Person/CN – N/A

Site/RN – N/A

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 21, 2012; July 16, 2012
Date(s) of NOV(s): May 4, 2012
Date(s) of NOE(s): June 29, 2012

Violation Information

1. Failed to submit to the Executive Director for approval by the required deadline, an adoptable emergency preparedness plan (“EPP”) that demonstrates the Facility’s ability to provide emergency operations [TEX. WATER CODE § 13.1395(b)(2) and 30 TEX. ADMIN. CODE § 291.162(a) and (j)].
2. Failed to pay all annual public health service (“PHS”) fees and associated late fees for TCEQ FA Account No. 91010204 for Fiscal Years 1996 through 2005, and 2008 through 2012 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
None

Technical Requirements:

1. Within 30 days:
 - a. Submit an adoptable EPP to the Executive Director for approval.
 - b. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 91010204
2. Within 45 days, submit written certification to demonstrate compliance:

Litigation Information

Date Petition(s) Filed: December 10, 2012; February 27, 2013; March 27, 2013
Date Green Card(s) Signed: December 12, 2012; Unclaimed; March 29, 2013
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, (512) 239-2576
TCEQ Regional Contact: Steve Smith, Houston Regional Office, (713) 767-3500
Respondent: Norman Barnett, 1001 Fleetwood Street, Baytown, Texas 77520
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	2-Jul-2012	Screening	16-Jul-2012	EPA Due	
	PCW	30-Oct-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Norman Barnett dba Sand Bar Estates		
Reg. Ent. Ref. No.	RN101215382		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44540	No. of Violations	2
Docket No.	2012-1397-UTL-E	Order Type	1660
Media Program(s)	Public Water Utilities	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$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.

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$75
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$23	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$328	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,575
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$1,575
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,575
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$1,575
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Screening Date 16-Jul-2012

Docket No. 2012-1397-UTL-E

PCW

Respondent Norman Barnett dba Sand Bar Estates

Policy Revision 3 (September 2011)

Case ID No. 44540

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101215382

Media [Statute] Public Water Utilities

Enf. Coordinator Abigail Lindsey

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>)	1	5%
	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	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) 5%

>> 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 one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 16-Jul-2012 **Docket No.** 2012-1397-UTL-E **PCW**
Respondent Norman Barnett dba Sand Bar Estates *Policy Revision 3 (September 2011)*
Case ID No. 44540 *PCW Revision August 3, 2011*
Reg. Ent. Reference No. RN101215382
Media [Statute] Public Water Utilities
Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 291.162(a) and (j) and Tex. Water Code § 13.1395(b)(2)

Violation Description Failed to submit to the Executive Director for approval by the required deadline, an adoptable emergency preparedness plan ("EPP") that demonstrates the Facility's ability to provide emergency operations.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			5.0%

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

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 6 166 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,500

Six monthly events are recommended, calculated from the date the EPP was deemed not adoptable, February 1, 2012, to the date of screening, July 16, 2012.

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 \$23

Violation Final Penalty Total \$1,575

This violation Final Assessed Penalty (adjusted for limits) \$1,575

Economic Benefit Worksheet

Respondent Norman Barnett dba Sand Bar Estates
Case ID No. 44540
Reg. Ent. Reference No. RN101215382
Media Violation No. Public Water Utilities
 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				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)	\$328	1-Feb-2012	1-Jul-2013	1.41	\$23	n/a	\$23

Notes for DELAYED costs: The delayed costs includes the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop and submit an adoptable EPP. Date required is the date the plan was due. Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$328

TOTAL \$23

Screening Date 16-Jul-2012

Docket No. 2012-1397-UTL-E

PCW

Respondent Norman Barnett dba Sand Bar Estates

Policy Revision 3 (September 2011)

Case ID No. 44540

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101215382

Media [Statute] Public Water Utilities

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s)

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

Violation Description

Failed to pay all annual Public Health Service fees and associated late fees for TCEQ Financial Administration Account No. 91010204 for Fiscal Years 1996 through 2005 and 2008 through 2012.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Matrix Notes area (empty)

Adjustment \$5,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

Notes area (empty)

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent Norman Barnett dba Sand Bar Estates
Case ID No. 44540
Reg. Ent. Reference No. RN101215382
Media Violation No. Public Water Utilities
 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

n/a

Avoided Costs

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

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

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN601358443 Norman Barnett Classification: Rating:
Regulated Entity: RN101215382 Sand Bar Estates Classification: Site Rating:
ID Number(s):
Location: 1516 GRACE LANE, HARRIS COUNTY, TEXAS
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 16, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 16, 2007 to July 16, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Abigail Lindsey Phone: (512) 239-2576

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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: 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 06/28/2012 (1014534)
 - 2 05/03/2012 (997612)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: **05/04/2012** (997612) CN601358443

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.39(o)(1)

Description: The affected utility as defined by 30 Texas Administrative Code (TAC) §290.38(1), failed to submit to the Executive Director for approval by February 1, 2012 an adoptable Emergency Preparedness Plan (EPP) that demonstrates the Facility's ability to provide emergency operations.
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NORMAN BARNETT D/B/A
SAND BAR ESTATES;
RN101215382**

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§
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§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-1397-UTL-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. WATER CODE chs. 5 and 13 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 Norman Barnett d/b/a Sand Bar Estates ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, for compensation, equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for the resale of potable water to the public for any use, located at 1516 Grace Lane in Highlands, Harris County, Texas (the "Facility"). Therefore, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13.
2. During a record review conducted on June 21, 2012, a TCEQ Central Office staff member documented that Respondent failed to submit to the Executive Director for approval by the required deadline, an adoptable emergency preparedness plan ("EPP") that demonstrates the Facility's ability to provide emergency operations.
3. During a record review conducted on July 16, 2012, a TCEQ Central Office staff member documented that Respondent failed to pay all annual Public Health Service ("PHS") fees and associated late fees for TCEQ Financial Administration ("FA") Account No. 91010204 for Fiscal Years 1996 through 2005, and 2008 through 2012.
4. Respondent received notice of the violation in Finding of Fact No. 2 on or about July 6, 2012.
5. Respondent received notice of the violation in Finding of Fact No. 3 on or about December 12, 2012.
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 Norman Barnett d/b/a Sand Bar Estates" (the "EDPRP") in the TCEQ Chief Clerk's office on December 10, 2012.
7. By letter dated December 10, 2012, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green

- card," Respondent received notice of the EDPRP on December 12, 2012, 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 Norman Barnett d/b/a Sand Bar Estates" (the "EDFARP") in the TCEQ Chief Clerk's office on February 27, 2013.
 9. The EDFARP was mailed to Respondent's last known address on February 27, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
 10. The Executive Director re-filed the EDFARP in the TCEQ Chief Clerk's office on March 27, 2013.
 11. By letter dated March 27, 2013, 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. According to the return receipt "green card," Respondent received notice of the EDFARP on March 29, 2013, as evidenced by the signature on the card.
 12. More than 20 days have elapsed since Respondent received notice of the 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. WATER CODE chs. 5 and 13 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to submit to the Executive Director for approval by the required deadline, an adoptable EPP that demonstrates the Facility's ability to provide emergency operations, in violation of TEX. WATER CODE § 13.1395(b)(2) and 30 TEX. ADMIN. CODE § 291.162(a) and (j).
3. As evidenced by Finding of Fact No. 3, Respondent failed to pay all annual PHS fees and associated late fees for TCEQ FA Account No. 91010204 for Fiscal Years 1996 through 2005, and 2008 through 2012, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
4. As evidenced by Findings of Fact Nos. 8 through 11, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 12, Respondent failed to file a timely answer as required by TEX. WATER CODE § 13.4151 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 13.4151 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. WATER CODE § 13.4151, 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 one thousand five hundred seventy-five dollars (\$1,575.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 13.4151.
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 one thousand five hundred seventy-five dollars (\$1,575.00) 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: Norman Barnett d/b/a Sand Bar Estates; Docket No. 2012-1397-UTL-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Submit to the Executive Director for approval an adoptable EPP, in accordance with 30 TEX. ADMIN. CODE § 291.162, using the template in 30 TEX. ADMIN. CODE § 290.47. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the EPP within 30 days after the date of such request(s), or by any other deadline specified in writing. The EPP shall be submitted to:

Technical Review and Oversight Team, MC 159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account No. 92010204. The payment shall be sent with the notation "Norman Barnett d/b/a Sand Bar Estates, FA Account No. 91010204" and shall be submitted to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a.i. and 3.a.ii. The certification 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 certification 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:

Bob Patton, Jr., Section Manager
Public Drinking Water Section, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Norman Barnett d/b/a Sand Bar Estates" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 10, 2012.

The EDPRP was mailed to Respondent's last known address on December 10, 2012, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on December 12, 2012, as evidenced by the signature on the card.

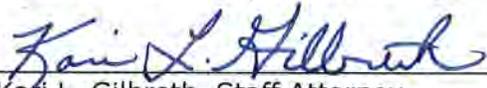
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Norman Barnett d/b/a Sand Bar Estates" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on February 27, 2013.

The EDFARP was mailed to Respondent's last known address on February 27, 2013, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed."

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDFARP was re-filed in the TCEQ Chief Clerk's office on March 27, 2013.

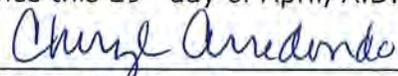
The EDFARP was mailed to Respondent's last known address on March 27, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDFARP on March 29, 2013, as evidenced by the signature on the card.

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."


Kari L. Gilbreth, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 29th day of April, A.D. 2013.


Notary Signature

