

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 47252  
Barbara Miller dba Turner Water Service  
RN101243129  
Docket No. 2013-1360-UTL-E

**Order Type:**

Default Order

**Media:**

UTL

**Small Business:**

Yes

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

531 Marilyn Street, Fresno, Fort Bend County

**Type of Operation:**

public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions: None

Past-Due Penalties: \$31,832.50 (2007-1107-PWS-E; Referred to the AG)  
\$12,123.99 (2008-0268-PWS-E; Referred to the AG)

Past-Due Fees: \$1,899.51 (Account No. 90790190)

Other: On June 20, 2013, the Attorney General's Office took a default judgment against Respondent, which included civil penalties and injunctive relief for the 2007 and 2008 cases listed above. The court awarded \$250,950 in civil penalties, \$41,464 in administrative penalties, \$6,000 in attorneys fees, and issued a permanent injunction ordering Respondent to come into compliance with the violations. The AG's office filed an Abstract of Judgment on July 22, 2013.

Interested Third-Parties: None

**Texas Register Publication Date:** April 11, 2014

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$7,400

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$7,400

**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:** November 13, 2012; April 3, 2013  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** April 17, 2013

**Violation Information**

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 §§ 290.39(o)(1) and 291.162(a) and (j)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**  
None

**Technical Requirements:**

1. Within 30 days, submit to the Executive Director for approval an EPP, in accordance with 30 TEX. ADMIN. CODE §§ 290.39(o)(1) and 291.162(a) and (j), using the template in 30 TEX. ADMIN. CODE § 290.45. Respondent shall respond completely and adequately, as determined by TCEQ, to all requests for information concerning the EPP within 30 days after the date for such request(s), or by any other deadline specified in writing.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** October 10, 2013; November 06, 2013  
**Date Green Card(s) Signed:** Unclaimed; Unclaimed  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jim Sallans, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363  
**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016  
**TCEQ Regional Contact:** Steve Smith, Houston Regional Office, (713) 767-3500  
**Respondent Contact:** Barbara Miller, 531 Marilyn Street, Fresno, Texas 77545-7951  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	22-Apr-2013		
	<b>PCW</b>	8-Aug-2013	<b>Screening</b>	3-May-2013
			<b>EPA Due</b>	

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Barbara Miller dba Turner Water Service		
<b>Reg. Ent. Ref. No.</b>	RN101243129		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	47252	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-1360-UTL-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Utilities	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Katy Montgomery
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,000
---	-------------------	---------

## 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>	85.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,400
---------------------------	-------------------	--------------------------------	---------

<b>Notes</b>	Enhancement for two default orders and one final default judgement.
--------------	---

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$37	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$328	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,400
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
--------------	--

<b>Final Penalty Amount</b>	\$7,400
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,400
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
-----------------	------	-----------	-------------------	-----

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

<b>Notes</b>	Deferral not offered for non-expedited settlement.
--------------	--

<b>PAYABLE PENALTY</b>	\$7,400
------------------------	---------

**Screening Date** 3-May-2013

**Docket No.** 2013-1360-UTL-E

**PCW**

**Respondent** Barbara Miller dba Turner Water Service

*Policy Revision 3 (September 2011)*

**Case ID No.** 47252

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN101243129

**Media [Statute]** Public Water Utilities

**Enf. Coordinator** Katy Montgomery

### 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> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	1	35%
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)** 85%

**>> 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 two default orders and one final default judgement.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 85%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 85%

**Screening Date** 3-May-2013 **Docket No.** 2013-1360-UTL-E **PCW**  
**Respondent** Barbara Miller dba Turner Water Service *Policy Revision 3 (September 2011)*  
**Case ID No.** 47252 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN101243129  
**Media [Statute]** Public Water Utilities  
**Enf. Coordinator** Katy Montgomery

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 290.39(o)(1) and 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**

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Sixteen monthly events are recommended, calculated from the due date of the EPP, February 1, 2012, to the screening date, May 3, 2013.

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Barbara Miller dba Turner Water Service  
**Case ID No.** 47252  
**Reg. Ent. Reference No.** RN101243129  
**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	30-Apr-2014	2.24	\$37	n/a	\$37

Notes for DELAYED costs

The delayed cost includes the estimated amount (\$41/hr labor and administrative cost x 8 hours) to develop and submit an adoptable EPP, calculated from the date the plan was due to the Executive Director 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$328

**TOTAL**

\$37

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN602952947, RN101243129, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN602952947, Barbara Miller

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Regulated Entity:** RN101243129, TURNER WATER SERVICE

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 531 MARILYN STREET, FORT BEND COUNTY, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0790190  
**WATER LICENSING** LICENSE 0790190

**Compliance History Period:** September 01, 2007 to August 31, 2012

**Rating Year:** 2012

**Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** July 18, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** July 18, 2008 to July 18, 2013

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

**Name:** Katy Montgomery

**Phone:** (210) 403-4016

## Site and Owner/Operator History:

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

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

**1 Effective Date: 07/23/2008 ADMINORDER 2007-1107-PWS-E (Findings Order-Default)**

Classification: Moderate

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

Description: Failed to collect routine water samples for bacteriological analysis. This includes violation tracking Nos. 276640, 276651, 276687, 276695, 276718, 276730, 276743, 276797, 276806, 276817, 276829, 276839, 276853, 276860, 276874, 276880, 276885, 276899, 276924, 276961, 276973, 276992, 276995, 277005, and 277011

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failed to post public notice of the failure to conduct sampling. This violation includes tracking nos. 276642, 276652, 276696, 276721, 276734, 276744, 276791, 276799, 276811, 276818, 276831, 276841, 276855, 276876, 276888, 276901, 276914, 276931, 276963, 276975, 276993, 277006, and 277013

**2 Effective Date: 11/07/2009 ADMINORDER 2008-0268-PWS-E (Findings Order-Default)**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)  
5A THSC Chapter 341, SubChapter A 341.033(a)

Description: Failure by the regulated entity to be under the direct supervision of a licensed water works operator at all times.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(A)  
30 TAC Chapter 290, SubChapter F 290.109(c)(2)  
30 TAC Chapter 290, SubChapter F 290.109(d)  
5A THSC Chapter 341, SubChapter A 341.033(d)

Description: Failure to submit at least one sample of water collected from the distribution system each month to a TCEQ certified laboratory for bacteriological analysis.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
30 TAC Chapter 290, SubChapter F 290.121(b)

Description: Failure to develop and maintain an up to date system monitoring plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to make available sanitary control easements for well at the time of inspection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)

Description: Failure to perform chlorine residual tests on water collected from various locations within the distribution system at least once every seven days.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the good working condition and general appearance of the system's facilities and equipment. Specifically, on the date of the investigation, the air/water ratio control device on the pressure tank was leaking, the pressure gauge on the pressure tank was heavily corroded and the indicator did not move when the well pump cycled, and the well house was in disrepair with a large gap in the wall where the siding had separated from the frame of the well house.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)  
 5A THSC Chapter 341, SubChapter A 341.0315(c)  
 Description: Failure to provide a minimum pressure tank capacity of 50 gallons per connection. Specifically, the system has 17 active connections and should be providing a minimum pressure tank capacity of 850 gallons. Because the current pressure tank has a capacity of 650 gallons, there is a 24% deficiency in the pressure tank capacity.  
 Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, specifically the pressure gauge for the pressure tank.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
 Description: Failure to conduct an annual inspection of the water system's one pressure tank.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)  
 Description: Failure to complete customer service inspection certifications prior to providing continuous water service to new construction. Specifically, three mobile homes and one house have been added to the system since November 30, 2005, but no customer service inspection certifications have been completed prior to adding these four new connections.  
 Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, specifically the damaged well house.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
 30 TAC Chapter 290, SubChapter H 290.274(a)  
 30 TAC Chapter 290, SubChapter H 290.274(c)  
 Description: Failed to mail or directly deliver a copy of the Consumer Confidence Report (CCR) to each bill paying customer by July 1st of each year. Specifically, the Respondent did not mail or directly deliver the CCRs for years 2000 through 2006 to each of its bill paying customers.  
 Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)  
 Description: Failure to submit a copy of the CCR and certification to the TCEQ that the CCR has been distributed to the customers of the water system. Specifically, the Respondent did not submit the CCR or the required certification for the years 2000 through 2006.

**3 Effective Date: 06/20/2013 COURTORDER (Final Judgment-Default After Hearing/Trial)**

Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: Failed to collect routine water samples for bacteriological analysis. This includes violation tracking Nos. 276640, 276651, 276687, 276695, 276718, 276730, 276743, 276797, 276806, 276817, 276829, 276839, 276853, 276860, 276874, 276880, 276885, 276899, 276924, 276961, 276973, 276992, 276995, 277005, and 277011  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 5A THSC Chapter 341, SubChapter A 341.033(d)  
 Description: Failed to post public notice of the failure to conduct sampling. This violation includes tracking nos. 276642, 276652, 276696, 276721, 276734, 276744, 276791, 276799, 276811, 276818, 276831, 276841, 276855, 276876, 276888, 276901, 276914, 276931, 276963, 276975, 276993, 277006, and 277013  
 Classification: Minor  
 Citation: 2A TWC Chapter 5, SubChapter A 5.702  
 30 TAC Chapter 290, SubChapter E 290.51(a)(1)  
 Description: Failed to pay water system fees and all associated late fees associated with Financial Administration account no. 0090790190.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: TCR Routine Monitoring Violation 05/2007 - Failure to collect any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: TCR PN Routine Monitoring Violation 05/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
 Description: TCR Routine Monitoring Violation 06/2007 - Failure to collect any routine monitoring sample(s).  
 Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: TCR PN Routine Monitoring Violation 06/2007 - Failure to post public notice for not collecting any routine monitoring sample(s).





Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 06/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 07/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 08/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 08/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 09/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 09/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 10/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 10/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 11/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
Description: TCR PN Routine Monitoring Violation 11/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)  
Description: TCR Routine Monitoring Violation 12/2009 - Failure to collect any routine monitoring sample(s).  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Rqmt Prov: OP 2.d.i ORDER  
Description: Failure to make available sanitary control easements for well at the time of inspection. Failure to comply with Commission Order Docket No. 2008-0268-PWS-E.  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)  
Rqmt Prov: OP 2.d.ii. ORDER  
Description: Failure to provide a pressure tank capacity of 50 gallons per connection. Failure to comply with Commission Order Docket No. 2008-0268-PWS-E.  
Classification: Major  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)  
Rqmt Prov: OP 2.b.ii. ORDER  
Description: Failure to complete customer service inspection certification prior to providing continuous water service. Failure to comply with Commission Order Docket No. 2008-0268-PWS-E.  
Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Rqmt Prov: OP 2.b.iii. ORDER

Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment, specifically the damaged well house. Failure to comply with Commission Order Docket No. 2008-0268-PWS-E.

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 07/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 07/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR Routine Monitoring Violation 08/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 08/2010 - Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 12/2010- Failure to post public notice for not collecting any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)

30 TAC Chapter 290, SubChapter F 290.106(e)

Description: This system failed to monitor and/or failed to report metals at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)

30 TAC Chapter 290, SubChapter F 290.106(e)

Description: This system failed to monitor and/or failed to report mineral levels at EP001 to the TCEQ for the triennial monitoring period from 01/01/2008 to 12/31/2010. The system also failed to monitor and/or failed to report nitrate levels at EP001 to the TCEQ for annual monitoring for 2006, 2008, and 2009, but no notices of violation were sent to the system for these violations.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(c)

30 TAC Chapter 290, SubChapter F 290.108(e)

Description: This system failed to monitor and/or failed to report radionuclide levels at EP001 to the TCEQ for the six year monitoring period from 01/01/2005 to 12/31/2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)

30 TAC Chapter 290, SubChapter F 290.107(e)

Description: This system failed to monitor and/or failed to report volatile organic contaminants levels at EP001 to the TCEQ for the six year monitoring period from 01/01/2005 to 12/31/2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(c)

30 TAC Chapter 290, SubChapter F 290.113(e)

Description: This system failed to monitor and/or failed to report disinfectant byproducts levels in the distribution system, referred to as DS01, to the TCEQ for the triennial monitoring period from 01/01/2006 to 12/31/2008.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2010.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2010. They have also failed to submit the second and first of 2010 and fourth and third quarter of 2009, but no notice of violations were sent.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2009.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2009.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2008. They have also failed to submit their third and second quarter 2008 and fourth, third and second quarter 2007, but no notice of violations were mailed.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2007.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the fourth quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the third quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2006.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)  
30 TAC Chapter 290, SubChapter F 290.110(e)

Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2006.

Classification: Moderate

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

Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2009 to its bill-paying customers. System failed to comply with their previous Agreed Order, Docket No. 2008-0268-PWS-E.

Classification: Moderate

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

Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2009 CCR year to the TCEQ. System failed to comply with their previous Agreed Order, Docket No. 2008-0268-PWS-E.

Classification: Moderate

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

Description: CCR 2010 - The system did not deliver the annual Consumer Confidence Report (CCR) for 2010 to its bill-paying customers.

Classification: Moderate

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

Description: CCR 2010 - The system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2010 CCR year to the TCEQ.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(3)  
30 TAC Chapter 290, SubChapter F 290.108(f)(4)

Description: RAD MR 6Y2008 - The system failed to monitor and/or failed to report radionuclide levels to the TCEQ for the 6 year monitoring period from 01/01/2003 to 12/31/2008.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.108(f)(3)  
30 TAC Chapter 290, SubChapter F 290.108(f)(4)

Description: RAD MR 3Y2011 - The system failed to monitor and/or failed to report radionuclide levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.107(c)(1)  
30 TAC Chapter 290, SubChapter F 290.107(e)

Description: SOC MR 3Y2011 - The system failed to monitor and/or failed to report synthetic organic contaminants levels to the TCEQ for the triennial monitoring period from 01/01/2009 to 12/31/2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(c)(6)  
30 TAC Chapter 290, SubChapter F 290.106(e)

Description: NO32 MR YR2011 - The system failed to monitor and/or failed to report nitrate/nitrite levels to the TCEQ for the annual monitoring period from 01/01/2011 to 12/31/2011.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**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  
BARBARA MILLER DBA  
TURNER WATER SERVICE;  
RN101243129**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2013-1360-UTL-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 13, 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 Barbara Miller DBA Turner Water Service ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owns and operates, for compensation, a public water system located at 531 Marilyn Street in Fresno, Fort Bend County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 18 service connections, and serves at least 25 people per day for at least 60 days per year. In addition, the Facility involves equipment or facilities for the transmission, storage, distribution, sale, or provision of potable water to the public or for resale of potable water to the public for any use. Therefore, Respondent is subject to the jurisdiction of the TCEQ pursuant TEX. WATER CODE ch. 13 and TEX. HEALTH & SAFETY CODE ch. 341.
2. During an investigation conducted on November 13, 2012, and a record review conducted on April 3, 2013, a TCEQ Houston Regional Office investigator 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. Specifically, the Facility failed to submit an EPP to the TCEQ by the required deadline.
3. Respondent received notice of the violation on or about April 22, 2013.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Barbara Miller DBA Turner Water Service" (the "EDPRP") in the TCEQ Chief Clerk's office on October 10, 2013.
5. The EDPRP was mailed to Respondent's last known address on October 10, 2013, via certified mail, return receipt requested postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on November 6, 2013.

7. By letter dated November 6, 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 EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
8. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 13, TEX. HEALTH & SAFETY CODE ch. 341, 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 §§ 290.39(o)(1) and 291.162(a) and (j).
3. As evidenced by Findings of Fact Nos. 4 through 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 13.4151, and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 8, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049, TEX. WATER CODE § 13.4151, and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, 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.
5. Pursuant to TEX. WATER CODE § 13.4151 and 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.
6. An administrative penalty in the amount of seven thousand four hundred dollars (\$7,400.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 13.4151 and TEX. HEALTH & SAFETY CODE § 341.049
7. 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 seven thousand four hundred dollars (\$7,400.00) 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: Barbara Miller dba Turner Water Service; Docket No. 2013-1360-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 submit to the Executive Director for approval an EPP, in accordance with 30 TEX. ADMIN. CODE §§ 290.39(o)(1) and 291.162(a) and (j), using the template in 30 TEX. ADMIN. CODE § 290.45. Respondent shall respond completely and adequately, as determined by TCEQ, to all requests for information concerning the EPP within 30 days after the date for such request(s), or by any other deadline specified in writing. The EPP shall be submitted to:

Technical Review and Oversight Team  
Water Supply Division, MC 159  
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 Provision No. 3.a. 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:

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

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

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

---

For the Commission

**AFFIDAVIT OF JIM SALLANS**

**STATE OF TEXAS**

§

**COUNTY OF TRAVIS**

§

§

"My name is Jim Sallans. 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.

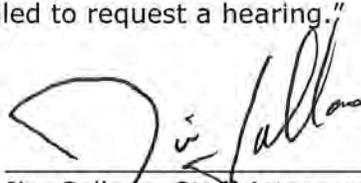
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain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

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the EDPRP was re-filed in the TCEQ Chief Clerk's office on November 6, 2013.

The EDPRP was mailed to Respondent's last known address on November 6, 2013, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

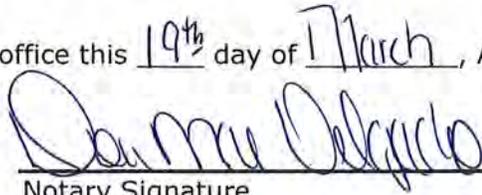
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



\_\_\_\_\_  
Jim Sallans, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 19<sup>th</sup> day of March, A.D. 2014.



\_\_\_\_\_  
Notary Signature



Notary without Bond