



Control Number: 53356



Item Number: 14

**DOCKET NO. 53356**

2022 JUN -7 PM 1:57

**REQUEST FOR AN EMERGENCY §  
ORDER APPOINTING A TEMPORARY §  
MANAGER FOR VILLA UTILITIES, §  
REED ESTATES WATER SYSTEM, §  
VISTA UTILITIES, AND J & L TERRY §  
LANE WITHOUT A HEARING §**

**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**ORDER MODIFYING EMERGENCY ORDER**

This Order addresses the application filed by Commission Staff for an emergency order appointing a temporary manager for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane. The executive director of the Commission filed an emergency order on March 16, 2022 appointing a temporary manager, and the Commission held a hearing to affirm, modify, or set aside the emergency order at the May 12, 2022 open meeting. The Commission modifies the emergency order filed by the executive director on March 16, 2022. The Commission appoints Harrison Williams as the temporary manager for Villa Utilities, Reed Estates Water System, and Vista Utilities; discharges Mr. Williams as temporary manager for J & L Terry Lane; and further modifies the emergency order to the extent provided in this Order.

**I. Findings of Fact**

The Commission makes the following findings of fact.

**Utility**

1. Norman Barnett owns and operates for compensation facilities and equipment for the transmission, storage, distribution, sale, or provision of potable water to the public.
2. Norman Barnett dba Villa Utilities provides potable water service in Chambers County and Harris County under certificate of convenience and necessity number 12079.
3. Mr. Barnett owns four public water systems registered with the Texas Commission on Environmental Quality (TCEQ): Villa Utilities, identification number 1011183; Reed Estates Water System, identification number 1010945; Vista Utilities, identification number 0360026; and J & L Terry Lane, identification number 1011684.

4. Villa Utilities, Reed Estates, Vista Utilities, and J & L Terry Lane provide potable water service to approximately 91 connections.
5. Reed Estates, Vista Utilities, and J & L Terry Lane do not hold certificates of convenience and necessity, and they are not identified among the public water systems listed in certificate of convenience and necessity number 12079.

#### **TCEQ Enforcement Actions**

6. TCEQ documented numerous violations at Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane between 2017 and 2021.
7. On November 19, 2020, a TCEQ investigator conducted an inspection on Reed Estates Water System and documented multiple TCEQ violations.
8. On July 9, 2021, the Office of the Attorney General filed a petition on behalf of the TCEQ for a permanent injunction against Mr. Barnett for continued violations of the Texas Water Code (TWC), TCEQ rules, and the Texas Health & Safety Code.
9. Mr. Barnett did not file an answer to the Office of the Attorney General petition.
10. On October 13, 2021, the 250th District Court in Travis County entered a default judgment including a permanent injunction against Mr. Barnett.
11. The district court found that from January 2012 through November 19, 2020, Mr. Barnett violated the TWC and TCEQ rules 134 times.
12. Under the default judgment, Mr. Barnett was required to pay civil penalties of \$20,691.20 for unpaid public health service fees and \$131,150.00 for 2,623 days of violations at fifty dollars per day. Additionally, Mr. Barnett was ordered to comply with a permanent injunction requiring Mr. Barnett to take specific actions to bring Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane into compliance with TCEQ rules.

#### **Water Service Outages**

13. Since January 31, 2022, the Commission received ten informal complaints from Mr. Barnett's customers alleging persistent water service outages.
14. Mr. Barnett did not respond to any of the ten informal complaints.

15. In early February 2022, Villa Utilities delivered hand-written notices of its intent to discontinue service to customers in Reed Estates Water System.
16. Villa Utilities' license to operate as a business in the state of Texas was forfeited on November 18, 1991.

**Petition for Emergency Order to Appoint a Temporary Manager**

17. On March 16, 2022, Commission Staff filed a request for the executive director of the Commission to file an emergency order appointing a temporary manager for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane.
18. Commission Staff alleged that Mr. Barnett has abandoned Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane by failing to adequately maintain facilities resulting in potential health hazards, extended outages, and repeated service interruptions; failing to secure an alternative available water supply during an outage; and repeatedly failing to respond to the Commission or the customers of Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane.
19. Commission Staff recommended that the executive director appoint Mr. Harrison Williams to temporarily manage and operate Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane. Commission Staff stated Mr. Williams has been in discussions with Mr. Barnett to purchase Villa Utilities and has relevant experience as the temporary manager of Cypresswood Estates Water System.<sup>1</sup>
20. Mr. Williams is the president and owner of South Coast Utilities, LLC and holds a current ground water treatment operator B license number WG0014737.
21. Commission Staff recommended that the executive director issue an emergency order to appoint Mr. Williams as temporary manager for a term to begin on March 16, 2022 and end on September 12, 2022, or when Mr. Williams is discharged from these responsibilities by the Commission or a superseding action is taken by an appropriate court on the appointment of a receiver at the request of the Office of the Attorney General, whichever occurs earlier.

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<sup>1</sup> *Commission Staff's Petition for an Order Appointing a Temporary Manager to Drew T. Spencer dba Cypresswood Estates Water System*, Docket No. 51113, Final Order (Sept. 16, 2020).

22. Commission Staff requested a waiver of the requirement in 16 TAC § 24.357(c) regarding the temporary manager's duty to post financial assurance with the Commission.
23. On April 26, 2022, Commission Staff and Mr. Williams filed a joint request to modify the emergency order to exclude J&L Terry Lane from temporary management.
24. Commission Staff and Mr. Williams provided a report from the TCEQ demonstrating that J & L Terry Lane was designated as an inactive public water system on November 19, 2020.
25. Commission Staff and Mr. Williams provided a report from TCEQ indicating that J & L Terry Lane's water well was plugged on February 21, 2021, and stated that J&L Terry Lane does not serve any customers.
26. Mr. Williams is willing to serve as temporary manager of Villa Utilities, Reed Estates Water System, and Vista Utilities.
27. Commission Staff and Mr. Williams jointly requested that Mr. Williams be compensated fifteen dollars per water connection per month for his work as temporary manager of Villa Utilities, Reed Estates Water System, and Vista Utilities.

**Emergency Order Appointing a Temporary Manager**

28. On March 16, 2022, the Commission's executive director filed an emergency order appointing Mr. Williams as temporary manager of Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane for a term set to begin on March 16, 2022 and end on September 12, 2022.

**Notice**

29. On March 16, 2022, a copy of Commission Staff's request for an emergency order was sent via certified mail, return receipt requested, and via first-class mail, to the last known addresses of the headquarters for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane.
30. In Order No. 1 filed on March 22, 2022, the Commission administrative law judge (ALJ) set a hearing on the merits at the Commission's open meeting scheduled for April 21, 2022 to address Commission Staff's application to appoint Mr. Williams as temporary manager

for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane without a hearing.

31. In Order No. 1, the ALJ instructed Commission Staff to file and serve upon Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane a notice of hearing that complies with the requirements of Texas Government Code §§ 2001.051 and 2001.052.
32. In Order No. 2 filed on March 31, 2022, the ALJ rescheduled the hearing to affirm, modify, or set aside the emergency order to May 12, 2022.
33. On April 20, 2022, Commission Staff provided notice of the rescheduled hearing on the emergency order set for May 12, 2022.
34. On April 27, 2022, Commission Staff filed and served upon Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane notice of the joint request to modify the emergency order appointing a temporary manager for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane.

**Evidentiary Record**

35. At the prehearing conference held on May 11, 2022, the Commission ALJ admitted into evidence the following Commission Staff exhibits:
  - a. exhibit number 1, the memo of Harold Kohl, filed on March 16, 2022;
  - b. exhibit number 2, Complaint Resolution Coordinator for the Commission, filed on March 16, 2022;
  - c. exhibit number 3, letter from Villa Utilities to its customers, filed on March 16, 2022;
  - d. exhibit number 4, address records of Norman Barnett, filed on March 16, 2022;
  - e. exhibit number 5, letter from DICE to Villa Utilities, filed on March 16, 2022;
  - f. exhibit number 6, Texas Secretary of State records for Villa Utilities, filed on March 16, 2022;
  - g. exhibit number 7, final default judgment and permanent injunction against Norman Barnett, filed on March 16, 2022;
  - h. exhibit number 8, TCEQ investigation report, filed on March 16, 2022;

- i. exhibit number 9, TCEQ summary sheet for J & L Terry Lane, filed on April 26, 2022;
- j. exhibit number 10, State of Texas plugging report, filed on April 26, 2022;
- k. exhibit number 11, Reed Estates Water System photos, filed on March 16, 2022; and
- l. exhibit number 12, affidavit of Rose Ramirez, legal secretary for the Commission, filed on April 26, 2022.

### **Hearing**

36. On May 12, 2022, the Commission held a hearing to affirm, modify, or set aside the emergency order issued by the executive director on March 16, 2022.

## **II. Conclusions of Law**

The Commission makes the following conclusions of law.

- 1. The Commission has jurisdiction over this matter under TWC §§ 13.4312, 13.451, and 13.454 and 16 TAC §§ 24.14, 24.355, and 24.357.
- 2. Villa Utilities, Reed Estates Water System, and Vista Utilities are public water systems owned and operated by Norman Barnett and, therefore, are water utilities as defined under TWC § 13.002(23) and 16 TAC § 24.3(39).
- 3. Commission Staff filed a petition to appoint a temporary manager for Villa Utilities, Reed Estates, Vista Utilities, and J & L Terry Lane in accordance with 16 TAC §§ 22.295 and 24.355.
- 4. Notice of the petition was provided by certified mail or regular mail to the last known addresses of Villa Utilities, Reed Estates, Vista Utilities, and J & L Terry Lane's headquarters.
- 5. Under TWC § 13.4132(a) and 16 TAC § 24.355(a), the Commission may appoint a willing person to temporarily manage and operate a utility that has discontinued or abandoned operations or the provision of services after providing notice to the utility.
- 6. Under TWC § 13.4132(b) and 16 TAC § 24.355(b), the appointment may be by emergency order.

7. Under TWC § 13.451(b), the Commission may, by order or rule, delegate to the executive director the authority to issue an emergency order under Subchapter K-1 of the Texas Water Code.
8. The Commission filed an order in Docket No. 43517<sup>2</sup> delegating authority to the executive director to receive applications and issue emergency orders under Subchapter K-1 of the TWC.
9. The executive director filed an emergency order appointing a temporary manager for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane in accordance with TWC § 13.4132 and 16 TAC § 24.355.
10. The Commission provided the utility with notice regarding the emergency order appointing a temporary manager in accordance with TWC § 13.4132(b) and 16 TAC § 22.297.
11. Under TWC § 13.454 (a) and (b), if the executive director issues an emergency order without a hearing, then the Commission must hold a hearing to affirm, modify, or set aside the emergency order unless the person affected by the order waives the right to a hearing.
12. Notice of the hearing to affirm, modify, or set aside the emergency order was provided in accordance with TWC § 13.451(a) and 16 TAC § 24.297 and 24.299.
13. Under TWC § 13.455 and 16 TAC § 24.14(f), the term of an emergency order must be limited to a reasonable time as specified in the Commission's order and may not exceed 180 days.
14. TWC § 13.412(f) and 16 TAC § 24.355(c) provide non-exhaustive lists of acts that constitute abandonment.
15. Norman Barnett abandoned operations of Villa Utilities, Reed Estates Water System, and Vista Utilities under TWC § 13.412(f)(3) and 16 TAC § 24.355(c)(3) when he failed to adequately maintain their facilities, which resulted in extended outages or repeated service interruptions.

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<sup>2</sup> *Delegation of Authority Generally to the Executive Director*, Docket No. 43517, Order (Dec. 4, 2015).



16. Norman Barnett abandoned operations of Villa Utilities, Reed Estates Water System, and Vista Utilities under TWC § 13.412(f)(5) and 16 TAC § 24.355(c)(5) when he failed to secure an alternative water supply during an outage.
17. Norman Barnett abandoned operations of Villa Utilities, Reed Estates Water System, and Vista Utilities under TWC § 13.412(f)(6) and 16 TAC § 24.355(c)(6) when he repeatedly failed to respond to the Commission or the utilities' customers.
18. J & L Terry Lane is an inactive public water system and does not serve any customers. Therefore, it is not necessary to appoint a person to temporarily manage and operate J & L Terry Lane.
19. A temporary manager has all the powers and duties necessary to ensure the continued operation of the utility and the provision of continuous and adequate service to customers, including, but not limited to, reading meters, billing for utility service, collecting revenues, disbursing funds, accessing all system components, requesting rate increases, and performing other acts necessary to assure continuous and adequate utility service by the Commission under TWC § 13.4132(c) and 16 TAC § 24.357(b).
20. A temporary manager is required to provide the Commission with an inventory of all property received within 60 days of appointment as temporary manager under 16 TAC § 24.357(e).
21. A temporary manager is required to report to the Commission on a monthly basis the following items: an income statement for the reporting period; a summary of utility activities, such as improvements or repairs made, number of connections added, and the amount of water produced or treated; as well as any other information required by the Commission under 16 TAC § 24.357(h).
22. The compensation for the temporary manager must come from utility revenues and will be set by the Commission at the time of appointment under 16 TAC § 24.357(f).
23. The requirement to post financial assurance with the Commission may be waived under 16 TAC § 24.357(c).
24. The Commission processed this docket in accordance with applicable statutes and Commission rules.

### III. Ordering Paragraphs

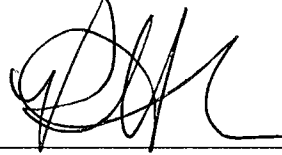
In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. The Commission modifies the emergency order filed by the executive director on March 16, 2022.
2. The Commission appoints Harrison Williams as the temporary manager for Villa Utilities, Reed Estates Water System, and Vista Utilities; discharges Mr. Williams as temporary manager for J & L Terry Lane; and further modifies the emergency order to the extent provided in this Order.
3. The Commission appoints Mr. Williams as temporary manager for Villa Utilities, Reed Estates Water System, and Vista Utilities for a term of 180 days. The appointment began on March 16, 2022 and continues through September 12, 2022 or until Mr. Williams is discharged from this appointment by the Commission, whichever occurs first.
4. If Mr. Williams wishes to end his temporary manager appointment for the utility prior to September 12, 2022, he must file a request at least 60 days before the date he requests the appointment to end.
5. The Commission sets the temporary manager compensation for Mr. Williams as temporary manager for Villa Utilities, Reed Estates Water System, and Vista Utilities at fifteen dollars per connection per month for each utility. The temporary manager compensation must come from each of the utility's revenues.
6. As temporary manager, Mr. Williams must comply with all requirements in TWC § 13.4132(c) and 16 TAC § 24.357(b).
7. The utilities and Mr. Williams must comply with all applicable requirements of the TWC as well as Commission and TCEQ rules.
8. Mr. Williams must exercise all the powers and duties necessary to ensure the continued operations of Villa Utilities, Reed Estates Water System, and Vista Utilities and the provision of continuous and adequate service to their customers.

9. Mr. Williams must file an inventory of all property received within 60 days of appointment under 16 TAC § 24.357(e). This inventory must be filed in Docket No. 53633, *Compliance Filing for Docket No. 53556 (Request for an Emergency Order Appointing a Temporary Manager for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane Without a Hearing)*.
10. During his tenure as temporary manager, Mr. Williams must file monthly reports. By the last day of each month the following documentation for the previous month must be filed: an income statement for the reporting period; a summary of utility activities such as improvements or major repairs made, the number of connections added, the amount of water produced or treated; and any other information required by the Commission under 16 TAC § 24.357(h). The filings must be made in Docket No. 53633, *Compliance Filing for Docket No. 53556 (Request for an Emergency Order Appointing a Temporary Manager for Villa Utilities, Reed Estates Water System, Vista Utilities, and J & L Terry Lane Without a Hearing)*.
11. The utilities must employ a TCEQ-licensed operator for the duration of this temporary managership.
12. Mr. Williams is not required to post financial assurance.
13. Mr. Williams must be compensated for his role as temporary manager
14. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 15<sup>th</sup> day of June 2022.

**PUBLIC UTILITY COMMISSION OF TEXAS**



**PETER M. LAKE, CHAIRMAN**



**WILL MCADAMS, COMMISSIONER**



**LORI COBOS, COMMISSIONER**



**JIMMY GLOTFELTY, COMMISSIONER**