EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0299-EAQ-E **TCEQ ID:** RN104206438 **CASE NO.:** 32823

RESPONDENT NAME: Pulte Homes of Texas, L.P.

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	X EDWARDS AQUIFER

SITE WHERE VIOLATION(S) OCCURRED: Lakeside at Canyon Springs, on the west side of Canyon Golf Road, approximately two miles north of Overlook Parkway, San Antonio, Bexar County

TYPE OF OPERATION: Single family subdivision construction site

SMALL BUSINESS: ____ Yes __X__ No

OTHER SIGNIFICANT MATTERS: A complaint was received on November 9, 2006 regarding the maintenance of the permanent water quality basins at the site. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 25, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468

Respondent: Mr. Arnold Briones, Vice President of Land Development, Pulte Homes of Texas, L.P., 823 Nakoma Drive East, Suite 101, San Antonio, Texas 78216

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: _X_ Complaint __ Routine __ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** November 9, 2006 **Dates of Investigations Relating to this Case:** November 13, 2006 and February 26, 2007 **Date of NOE Relating to this Case:** February 7, 2007 (NOE) **Background Facts:** This was a complaint investigation. Six violations were documented. **WATER** 1) Failed to submit to the TCEQ proof of recordation in the county deed records notices of Edwards Aquifer Protection Program ("EAPP") approval letters. Specifically, Pulte Homes failed to submit the deed recorded copies of the June 24, 2004 approval letter and the February 9, 2006 modification letter [30 TEX. ADMIN. CODE § 213.4(g)(3) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 2]. 2) Failed to submit and receive approval of modifications to an EAPP prior to performing a regulated activity. Specifically, an EAPP for the Site was approved on June 24, 2004 and an EAPP modification for the Site was approved on February 9, 2006. The investigator observed that the vegetative filter strip designed to treat stormwater runoff from the Recreation Center had a playground, sidewalk, and other structures that were not specifically authorized in the June 24, 2004 or February 9, 2006 approval letters [30 TEX. ADMIN. CODE § 213.4(j)(2) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 4].	**Total Assessed:** $11,000 **Total Deferred:** $2,200 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $8,800 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Pulte Homes has implemented the following corrective measures at the Site: a. On or before November 30, 2006: i. At Basin 1, stabilized the area around the discharge pipe and added rock rubble for velocity control, removed and properly disposed of the two sediment piles, and added rock rubble to the weir outfall; ii. At Basin 2, stabilized the area south of the basin and removed and properly disposed of the debris in the bottom of the inlet structure; iii. At Basin 3, stabilized the areas north, south, and southwest of the basin, stabilized the area around the discharge pipe and added rock rubble for velocity control, stabilized the side slopes of the basin, and removed and properly disposed of the concrete pile near the basin; iv. At Basin 4, removed, replaced, and graded the sand filter media, repaired the silt fence around the sand filter media, replaced all missing screw-on caps for the clean-out pipes, and removed and properly disposed of the sediment from the weir and the construction debris pile located on the downgradient side of the silt fence west of the basin; v. At Basin 5, installed and began maintaining temporary best management practices; and vi. At the Recreation Center vegetative filter strip, removed and properly disposed of the construction debris. b. On February 21, 2007, submitted deed recorded copies of the June 24, 2004 approval letter and the February 9, 2006 modification letter.

3) Failed to submit to the TCEQ written documentation from a Texas licensed professional engineer certifying that the permanent best management practices ("BMPs") or measures were constructed as designed. Specifically, TCEQ never received certifications for the Recreation Center vegetative filter strip or for the vegetative filter strips for individual house lots that have been completed [30 TEX. ADMIN. CODE § 213.5(b)(4)(D)(ii)(II) and EAPP Files Nos. 2156.00 and 2156.01, Standard Conditions No. 14]. 4) Failed to maintain permanent BMPs after construction [30 TEX. ADMIN. CODE § 213.4(k) and EAPP File No. 2156.00, Standard Conditions No. 15 and EAPP File No. 2156.01, Standard Conditions No. 17]. 5) Failed to maintain temporary erosion and sedimentation controls prior to construction. Specifically, the investigator observed that regulated activity had begun around Basin No. 5, including road clearing, but no temporary BMPs could be located [30 TEX. ADMIN. CODE § 213.4(k) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 6]. 6) Failed to pay outstanding General Permit Stormwater fees and associated late fees for TCEQ Account No. 20005599 for FY 2006 and TCEQ Account Nos. 20006206, 20005599, 20005600, 20005601, 20005602, 20005603, 20006541, 20008167, 20008168, 20008291, 20010260, 20010263, 20010264, 20010265, 20015540, and 20020350 for FY 2007 [TEX. WATER CODE §§ 5.702 and 26.0291 and 30 TEX. ADMIN. CODE § 205.6].		**Ordering Provisions:** 2) The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Submit payment for all outstanding fees, including any associated penalties and interest; ii. At Basin 4, repair and maintain the silt fence located across the street from the basin, properly stabilize the disturbed areas south, southwest, and west of the basin, and support the concrete box and stabilize the area to prevent soil erosion; and iii. Submit for review and approval an EAPP modification application for the playground, sidewalk, and other structures located on the Recreation Center vegetative filter strip. b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the modification application within 30 days after the date of such requests or by any other deadline specified in writing; c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii.; d. Within 120 days after the effective date of this Agreed Order, submit documentation from a Texas licensed professional engineer certifying that the Recreation Center vegetative filter strip and the vegetative filter strips for individual house lots have been constructed as designed; e. Within 135 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.d.; and f. The certifications required by Ordering Provision Nos. 2.c. and 2.e. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

DATES					
Assigned	12-Feb-2007				
PCW	26-Feb-2007	Screening	26-Feb-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Pulte Homes of Texas, L.P.		
Reg. Ent. Ref. No.	RN104206438		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32823	No. of Violations	6
Docket No.	2007-0299-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $11,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 0% Enhancement — *Subtotals 2, 3, & 7* $0

Notes: Recommend no adjustment to penalty amount due to average performer classification.

Culpability — No — 0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* $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.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$516
Approx. Cost of Compliance	$9,820

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $11,000

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $11,000

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $11,000

DEFERRAL — 20% Reduction — *Adjustment* -$2,200

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $8,800

Screening Date	26-Feb-2007	**Docket No.** 2007-0299-EAQ-E	**PCW**
Respondent	Pulte Homes of Texas, L.P.		*Policy Revision 2 (September 2002)*
Case ID No.	32823		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN104206438		
Media [Statute]	Edwards Aquifer		
Enf. Coordinator	Lynley Doyen		

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Recommend no adjustment to penalty amount due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	26-Feb-2007	**Docket No.** 2007-0299-EAQ-E	**PCW**
Respondent	Pulte Homes of Texas, L.P.		*Policy Revision 2 (September 2002)*
Case ID No.	32823		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN104206438		
Media [Statute]	Edwards Aquifer		
Enf. Coordinator	Lynley Doyen		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(g)(3) and Edwards Aquifer Protection Program ("EAPP") File Nos. 2156.00 and 2156.01, Standard Conditions No. 2

Violation Description Failed to submit to the TCEQ proof of recordation in the county deed records notices of EAPP approval letters. Specifically, Pulte Homes failed to submit the deed recorded copies of the June 24, 2004 approval letter and the February 9, 2006 modification letter.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2

100 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,000

Two single events (one event for each deed recorded letter) are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $2,000

This violation Final Assessed Penalty (adjusted for limits) $2,000

Economic Benefit Worksheet

Respondent Pulte Homes of Texas, L.P.
Case ID No. 32823
Reg. Ent. Reference No. RN104206438
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$20	23-Aug-2004	21-Feb-2007	2.5	$2	n/a	$2
Notes for DELAYED costs	Estimated cost to prepare and submit proof of deed recordation for EAPP authorization letters. Date required is the date the first submittal was due. Final date is the date compliance was achieved.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $20

TOTAL: $2

Screening Date 26-Feb-2007 **Docket No.** 2007-0299-EAQ-E **PCW**

Respondent Pulte Homes of Texas, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 32823 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN104206438

Media [Statute] Edwards Aquifer

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j)(2) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 4

Violation Description Failed to submit and receive approval of modifications to an EAPP prior to performing a regulated activity. Specifically, an EAPP for the Site was approved on June 24, 2004 and an EAPP modification for the Site was approved on February 9, 2006. The investigator observed that the vegetative filter strip designed to treat stormwater runoff from the Recreation Center had a playground, sidewalk, and other structures that were not specifically authorized in the June 24, 2004 or February 9, 2006 approval letters.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 | 105 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four monthly events are recommended based on the investigation date (November 13, 2006) through the date of screening (February 26, 2007).

Economic Benefit (EB) for this violation

Estimated EB Amount $141

Statutory Limit Test

Violation Final Penalty Total $4,000

This violation Final Assessed Penalty (adjusted for limits) $4,000

Economic Benefit Worksheet

Respondent Pulte Homes of Texas, L.P.
Case ID No. 32823
Reg. Ent. Reference No. RN104206438
Media Edwards Aquifer
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$2,500	13-Nov-2006	31-Dec-2007	1.1	$141	n/a	$141
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost associated with preparing, submitting, and obtaining approval to modify an Edwards Aquifer Protection Plan. Date required is the investigation date. Final date is the expected date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $2,500

TOTAL: $141

Screening Date	26-Feb-2007	**Docket No.** 2007-0299-EAQ-E	**PCW**
Respondent	Pulte Homes of Texas, L.P.		*Policy Revision 2 (September 2002)*
Case ID No.	32823		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN104206438		
Media [Statute]	Edwards Aquifer		
Enf. Coordinator	Lynley Doyen		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 213.5(b)(4)(D)(ii)(II) and EAPP Files Nos. 2156.00 and 2156.01, Standard Conditions No. 14

Violation Description Failed to submit to the TCEQ written documentation from a Texas licensed professional engineer certifying that the permanent best management practices ("BMPs") or measures were constructed as designed. Specifically, TCEQ never received certifications for the Recreation Center vegetative filter strip or for the vegetative filter strips for individual house lots that have been completed.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 2

105 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,000

Two single events (one event for each certification) are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $17

Statutory Limit Test

Violation Final Penalty Total $2,000

This violation Final Assessed Penalty (adjusted for limits) $2,000

Economic Benefit Worksheet

Respondent Pulte Homes of Texas, L.P.
Case ID No. 32823
Reg. Ent. Reference No. RN104206438
Media Edwards Aquifer
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$300	13-Nov-2006	31-Dec-2007	1.1	$17	n/a	$17
Notes for DELAYED costs	Estimated cost associated with obtaining engineer certifications for the vegetative filter strips. Date required is the investigation date. Final date is the expected date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $300

TOTAL: $17

Screening Date 26-Feb-2007 **Docket No.** 2007-0299-EAQ-E **PCW**

Respondent Pulte Homes of Texas, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 32823 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN104206438

Media [Statute] Edwards Aquifer

Enf. Coordinator Lynley Doyen

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP File No. 2156.00, Standard Conditions No. 15 and EAPP File No. 2156.01, Standard Conditions No. 17

Violation Description Failed to maintain permanent BMPs after construction, as described in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain permanent BMPs could expose human health or the environment to insignifcant amounts of pollutants through the release of stormwater runoff.

Adjustment $9,500

$500

Violation Events

Number of Violation Events 5 | 105 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

Five single events (one event for each permanent BMP structure) is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $352

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent Pulte Homes of Texas, L.P.
Case ID No. 32823
Reg. Ent. Reference No. RN104206438
Media Edwards Aquifer
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	13-Nov-2006	30-Sep-2007	0.9	$15	$293	$308
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal	$1,000	13-Nov-2006	30-Sep-2007	0.9	$44	n/a	$44
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated costs associated with maintenace of permanent BMP structures and proper disposal of construction debris. Date required is the investigation date. Final date is the expected date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $6,000

TOTAL: $352

Screening Date 26-Feb-2007 **Docket No.** 2007-0299-EAQ-E **PCW**

Respondent Pulte Homes of Texas, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 32823 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN104206438

Media [Statute] Edwards Aquifer

Enf. Coordinator Lynley Doyen

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 6

Violation Description Failed to maintain temporary erosion and sedimentation controls prior to construction. Specifically, the investigator observed that regulated activity had begun around Basin No. 5, including road clearing, but no temporary BMPs could be located.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

OR

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain temporary erosion and sedimentation controls could expose human health or the environment to insignificant amounts of pollutants through the release of stormwater runoff.

Adjustment $9,500

$500

Violation Events

Number of Violation Events 1 — 100 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $500

One single event is recommended.

Economic Benefit (EB) for this violation — Statutory Limit Test

Estimated EB Amount $3 **Violation Final Penalty Total** $500

This violation Final Assessed Penalty (adjusted for limits) $500

Economic Benefit Worksheet

Respondent Pulte Homes of Texas, L.P.
Case ID No. 32823
Reg. Ent. Reference No. RN104206438
Media Edwards Aquifer
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$1,000	13-Nov-2006	30-Nov-2006	0.0	$0	$3	$3
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost associated with implementing BMPs around Basin No. 5. Date required is the investigation date. Final date is the date compliance was achieved.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $1,000

TOTAL: $3

Screening Date 26-Feb-2007 **Docket No.** 2007-0299-EAQ-E **PCW**

Respondent Pulte Homes of Texas, L.P. *Policy Revision 2 (September 2002)*

Case ID No. 32823 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN104206438

Media [Statute] Edwards Aquifer

Enf. Coordinator Lynley Doyen

Violation Number 6

Rule Cite(s) Tex. Water Code §§ 5.702 and 26.0291 and 30 Tex. Admin. Code § 205.6

Violation Description Failed to pay outstanding General Permit Stormwater fees and associated late fees for TCEQ Account No. 20005599 for FY 2006 and TCEQ Account Nos. 20006206, 20005599, 20005600, 20005601, 20005602, 20005603, 20006541, 20008167, 20008168, 20008291, 20010260, 20010263, 20010264, 20010265, 20015540, and 20020350 for FY 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: N/A

Adjustment $10,000

$0

Violation Events

Number of Violation Events _____ _____ Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $0

No penalty is recommended because fees and interest will be assessed at the next billing cycle.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

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

Economic Benefit Worksheet

Respondent Pulte Homes of Texas, L.P.
Case ID No. 32823
Reg. Ent. Reference No. RN104206438
Media Edwards Aquifer
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$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				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	N/A						

Approx. Cost of Compliance: $0

TOTAL: $0

VIOLATION TABLE
Violation No. 4
PULTE HOMES OF TEXAS, L.P. DOCKET NO. 2007-0299-EAQ-E
BASIN 1
The area around the discharge pipe had a depression that indicated water was leaving the pipe at a high velocity and there was evidence of soil erosion. There were two sediment piles near the basin that were not properly disposed of or stabilized. The weir outfall did not have rock rubble according to the approved design and there was evidence of erosion in the drainage channel.
BASIN 2
A disturbed area south of the basin had incomplete and/or inadequate soil stabilization resulting in exposed soils. The bottom of the inlet structure had debris accumulated.
BASIN 3
Disturbed areas north, south, and southwest of the basin had incomplete and/or inadequate soil stabilization resulting in exposed soils. The area around the discharge pipe had a depression that indicated water was leaving the pipe at a high velocity and there was evidence of soil erosion. The grass sod on the basin side slopes was dead. A dried concrete pile near the basin was not properly disposed of.
BASIN 4
The silt fence around the sand filter media contained soil residue, indicating the basin was not draining properly. A large amount of sediment had accumulated in the weir. A screw-on cap was missing on one of the clean-out pipes. The sand filter had depressions of various sizes. There was evidence of soil erosion around a concrete box that enclosed the shut-off valve for the basin. Disturbed areas south, southwest, and west of the basin had incomplete and/or inadequate soil stabilization resulting in exposed soils. There was a construction debris pile located on the downgradient side of the silt fence west of the basin. The house lot across the street from the basin had an improperly maintained silt fence and had evidence that vehicles had driven over it.
RECREATION CENTER VEGETATIVE FILTER STRIP
The vegetative filter strip contained construction debris.

Compliance History

Customer/Respondent/Owner-Operator:	CN602406035	Pulte Homes of Texas, L. P.	Classification: AVERAGE	Rating: 3.44
Regulated Entity:	RN104206438	LAKESIDE AT CANYON SPRINGS	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):		EDWARDS AQUIFER	REGISTRATION	13-04031001
Location:		LOCATED ON THE W SIDE OF CANYON GOLF RD, APPRX 2 M N OF OVERLOOK PKWY, SAN ANTONIO, BEXAR CO, TX		Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:		REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:		February 22, 2007		
Agency Decision Requiring Compliance History:		Enforcement		
Compliance Period:		February 22, 2002 to February 22, 2007		

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

Name: Lynley Doyen Phone: 512-239-1364

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 of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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.)

N/A

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

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
PULTE HOMES OF TEXAS, L.P.	§	
RN104206438	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0299-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pulte Homes of Texas, L.P. ("Pulte Homes") under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Pulte Homes appear before the Commission and together stipulate that:

1. Pulte Homes owns and operates a single family subdivision construction site located on the west side of Canyon Golf Road, approximately two miles north of Overlook Parkway in San Antonio, Bexar County, Texas (the "Site").

2. Pulte Homes has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and Pulte Homes agree that the Commission has jurisdiction to enter this Agreed Order, and that Pulte Homes is subject to the Commission's jurisdiction.

4. Pulte Homes received notice of the violations alleged in Section II ("Allegations") on or about February 12, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Pulte Homes of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eleven Thousand Dollars ($11,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Pulte Homes has

paid Eight Thousand Eight Hundred Dollars ($8,800) of the administrative penalty and Two Thousand Two Hundred Dollars ($2,200) is deferred contingent upon Pulte Homes's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Pulte Homes fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Pulte Homes to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Pulte Homes have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Pulte Homes has implemented the following corrective measures at the Site:

   a. On or before November 30, 2006:

      i. At Basin 1, stabilized the area around the discharge pipe and added rock rubble for velocity control, removed and properly disposed of the two sediment piles, and added rock rubble to the weir outfall;

      ii. At Basin 2, stabilized the area south of the basin and removed and properly disposed of the debris in the bottom of the inlet structure;

      iii. At Basin 3, stabilized the areas north, south, and southwest of the basin, stabilized the area around the discharge pipe and added rock rubble for velocity control, stabilized the side slopes of the basin, and removed and properly disposed of the concrete pile near the basin;

      iv. At Basin 4, removed, replaced, and graded the sand filter media, repaired the silt fence around the sand filter media, replaced all missing screw-on caps for the clean-out pipes, and removed and properly disposed of the sediment from the weir and the construction debris pile located on the downgradient side of the silt fence west of the basin;

      v. At Basin 5, installed and began maintaining temporary best management practices; and

      vi. At the Recreation Center vegetative filter strip, removed and properly disposed of the construction debris.

   b. On February 21, 2007, submitted deed recorded copies of the June 24, 2004 approval letter and the February 9, 2006 modification letter.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Pulte Homes has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, Pulte Homes is alleged to have:

1. Failed to submit to the TCEQ proof of recordation in the county deed records notices of Edwards Aquifer Protection Program ("EAPP") approval letters, in violation of 30 TEX. ADMIN. CODE § 213.4(g)(3) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 2, as documented during an investigation conducted on November 13, 2006. Specifically, Pulte Homes failed to submit the deed recorded copies of the June 24, 2004 approval letter and the February 9, 2006 modification letter.

2. Failed to submit and receive approval of modifications to an EAPP prior to performing a regulated activity, in violation of 30 TEX. ADMIN. CODE § 213.4(j)(2) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 4, as documented during an investigation conducted on November 13, 2006. Specifically, an EAPP for the Site was approved on June 24, 2004 and an EAPP modification for the Site was approved on February 9, 2006. The investigator observed that the vegetative filter strip designed to treat stormwater runoff from the Recreation Center had a playground, sidewalk, and other structures that were not specifically authorized in the June 24, 2004 or February 9, 2006 approval letters.

3. Failed to submit to the TCEQ written documentation from a Texas licensed professional engineer certifying that the permanent best management practices ("BMPs") or measures were constructed as designed, in violation of 30 TEX. ADMIN. CODE § 213.5(b)(4)(D)(ii)(II) and EAPP Files Nos. 2156.00 and 2156.01, Standard Conditions No. 14, as documented during an investigation conducted on November 13, 2006. Specifically, TCEQ never received certifications for the Recreation Center vegetative filter strip or for the vegetative filter strips for individual house lots that have been completed.

4. Failed to maintain permanent BMPs after construction, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP File No. 2156.00, Standard Conditions No. 15 and EAPP File No. 2156.01, Standard Conditions No. 17, as documented during an investigation conducted on November 13, 2006 and described in the following table:

VIOLATION TABLE
BASIN 1
The area around the discharge pipe had a depression that indicated water was leaving the pipe at a high velocity and there was evidence of soil erosion. There were two sediment piles near the basin that were not properly disposed of or stabilized. The weir outfall did not have rock rubble according to the approved design and there was evidence of erosion in the drainage channel.
BASIN 2
A disturbed area south of the basin had incomplete and/or inadequate soil stabilization resulting in exposed soils. The bottom of the inlet structure had debris accumulated.
BASIN 3
Disturbed areas north, south, and southwest of the basin had incomplete and/or inadequate soil stabilization resulting in exposed soils. The area around the discharge pipe had a depression that indicated water was leaving the pipe at a high velocity and there was evidence of soil erosion. The grass sod on the basin side slopes was dead. A dried concrete pile near the basin was not properly disposed of.
BASIN 4
The silt fence around the sand filter media contained soil residue, indicating the basin was not draining properly. A large amount of sediment had accumulated in the weir. A screw-on cap was missing on one of the clean-out pipes. The sand filter had depressions of various sizes. There was evidence of soil erosion around a concrete box that enclosed the shut-off valve for the basin. Disturbed areas south, southwest, and west of the basin had incomplete and/or inadequate soil stabilization resulting in exposed soils. There was a construction debris pile located on the downgradient side of the silt fence west of the basin. The house lot across the street from the basin had an improperly maintained silt fence and had evidence that vehicles had driven over it.
RECREATION CENTER VEGETATIVE FILTER STRIP
The vegetative filter strip contained construction debris.

5. Failed to maintain temporary erosion and sedimentation controls prior to construction, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP File Nos. 2156.00 and 2156.01, Standard Conditions No. 6, as documented during an investigation conducted on November 13, 2006. Specifically, the investigator observed that regulated activity had begun around Basin No. 5, including road clearing, but no temporary BMPs could be located.

6. Failed to pay outstanding General Permit Stormwater fees and associated late fees for TCEQ Account No. 20005599 for FY 2006 and TCEQ Account Nos. 20006206, 20005599, 20005600, 20005601, 20005602, 20005603, 20006541, 20008167, 20008168, 20008291, 20010260, 20010263, 20010264, 20010265, 20015540, and 20020350 for FY 2007, in violation of TEX. WATER CODE §§ 5.702 and 26.0291 and 30 TEX. ADMIN. CODE § 205.6, as documented during an overdue fee review conducted on February 26, 2007.

III. DENIALS

Pulte Homes generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Pulte Homes pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Pulte Homes' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Pulte Homes of Texas, L.P., Docket No. 2007-0299-EAQ-E" to:

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

2. It is further ordered that Pulte Homes shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Pulte Homes of Texas, L.P., Docket No. 2007-0299-EAQ-E," to the address referenced in Ordering Provision No. 1 above;

      ii. At Basin 4, repair and maintain the silt fence located across the street from the basin, properly stabilize the disturbed areas south, southwest, and west of the basin, and support the concrete box and stabilize the area to prevent soil erosion; and

      iii. Submit for review and approval an EAPP modification application for the playground, sidewalk, and other structures located on the Recreation Center vegetative filter strip to:

      Water Section Manager
      San Antonio Regional Office
      Texas Commission on Environmental Quality
      14250 Judson Road
      San Antonio, Texas 78233-4480

   b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the modification application within 30 days after the date of such requests or by any other deadline specified in writing;

c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii., as described in Ordering Provision No. 2.f. below;

d. Within 120 days after the effective date of this Agreed Order, submit documentation from a Texas licensed professional engineer certifying that the Recreation Center vegetative filter strip and the vegetative filter strips for individual house lots have been constructed as designed;

e. Within 135 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.d., as described in Ordering Provision No. 2.f. below; and

f. The certifications required by Ordering Provision Nos. 2.c. and 2.e. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions. The certifications shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Pulte Homes. Pulte Homes is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.

4. If Pulte Homes fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Pulte Homes' failure to comply is not a violation of this Agreed Order. Pulte Homes shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Pulte Homes shall notify the Executive Director within seven days after Pulte Homes becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Pulte Homes shall be made in writing to the Executive Director. Extensions are not effective until Pulte Homes receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Pulte Homes in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

John Sadlier
For the Executive Director

8/2/07
Date

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

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

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

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

Arnold Briones
Signature

4/10/07
Date

ARNOLD BRIONES
Name (Printed or typed)
Authorized Representative of
Pulte Homes of Texas, L.P.

Vice President of Land
Title

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