

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0489-MLM-E **TCEQ ID:** RN104151444 **CASE NO.:** 32024

RESPONDENT NAME: 100 Century Oaks, Ltd. dba Wortham Oaks

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input checked="" type="checkbox"/> EDWARDS AQUIFER	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Wortham Oaks Units 1 through 4, located north of Evans Road between Hanging Oak and Angostura Boulevard, Bexar County</p> <p>TYPE OF OPERATION: Residential subdivision construction</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 1, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, MC R-12, (713) 767-3672; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Charles Claiborne, President, 100 Century Oaks, Ltd. dba Wortham Oaks, 4210 Spicewood Springs Road, Suite 200, Austin, Texas 78759 Mr. Chris Claiborne, Asst. Manager, 100 Century Oaks, Ltd. dba Wortham Oaks, 4210 Spicewood Springs Road, Suite 200, Austin, Texas 78759 Respondent's Attorney: Mr. Craig M. Douglas, Smith, Robertson, Elliott, Glen, Klein & Bell, L.L.P., 221 West Sixth Street, Suite 1100, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigations Relating to this Case: November 1, 2006 and December 5, 2006</p> <p>Date of NOV Relating to this Case: January 31, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Nine significant program violations were observed.</p> <p>WATER/WASTE</p> <p>1) Failure to prevent the unauthorized discharge of paint over-spray wastes from painting activities in the sensitive geological feature GF-14 protection area. Specifically, the investigator documented on November 1, 2006, red paint accumulations on the soil [30 TEX. ADMIN. CODE § 330.15(a)(3), Edwards Aquifer Protection Program ("EAPP") ID No. 2130.00, Special Condition No. VII, and TEX. WATER CODE § 26.121(c)].</p> <p>2) Failure to provide operational sedimentation/filtration basins prior to occupancy of any residences within the respective drainage areas. Specifically, Basin A and Basin B were not operational when homes located in the respective drainage areas for both were occupied [30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Special Condition No. II].</p> <p>3) Failure to construct and maintain silt fences and rock berms as specified in the approved Edwards Aquifer Water Pollution Abatement Plan ("WPAP"). Specifically, silt fences were not installed in three locations, rock berms were not installed in three locations, and a silt fence installed around the sensitive feature GF-14 had not been maintained [30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No.</p>	<p>Total Assessed: \$33,500</p> <p>Total Deferred: \$6,700 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$26,800</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that Respondent has implemented the following corrective measures at the Site:</p> <p>a) On January 11, 2007, removed construction materials and debris and paint-contaminated soil and completed the revegetation of the impacted soils in the GF-14 protection area; and</p> <p>b) On May 25, 2007, completed the installation of three additional silt fences and three additional rock berms not previously provided as required by the approved WPAP and repaired the silt fence surrounding the GF-14 protection area.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <p>i) Install temporary sedimentation/filtration basins in all drainage areas where construction has been initiated and operational basins have not been completed and complete the installation of operational sedimentation/filtration basins in drainage areas with occupied homes; or submit to the TCEQ San Antonio Regional Office for approval a modification of the previously approved Edwards Aquifer protection plan to revise the sedimentation/filtration basin requirements;</p> <p>ii) Install inlet structures;</p> <p>iii) Submit to the TCEQ San Antonio Regional Office for approval, a modification of the previously issued Edwards Aquifer protection plan to add the construction of the fire station or documentation that the fire station has been removed;</p>

<p>2130.00, Standard Condition No. 6].</p> <p>4) Failure to provide sedimentation/filtration basins for use as temporary sedimentation basins during construction. Specifically, temporary sedimentation/filtration basins had not been excavated for the drainage areas of Basin B, Basin C, and Basin D during construction [30 TEX. ADMIN. CODE § 213.4(K) and EAPP ID No. 2130.00, Standard Condition No. 6].</p> <p>5) Failure to install or maintain inlet protection throughout the Site as specified in the approved WPAP [30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 6].</p> <p>6) Failure to submit and obtain approval of modifications to an Edwards Aquifer protection plan prior to conducting regulated activities not previously identified in the approved plan. Specifically, a fire station was constructed on the Site, which was approved for single family residential development only [30 TEX. ADMIN. CODE § 213.4(j)(2) and EAPP ID No. 2130.00, Standard Condition No. 4].</p> <p>7) Failure to properly install and/or maintain concrete truck washout pits as specified in the general details of the approved WPAP. Specifically, the concrete washout pit in Basin D was not properly installed, concrete washout was discharged in two locations not contained within a pit, and a second pit was not maintained to prevent the discharge of concrete washout outside of the pit [30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 6].</p> <p>8) Failure to comply with the approved plan by conducting unauthorized regulated activities within the GF-14 protection area where no such activities were allowed. Specifically, a temporary construction access road and equipment, and materials staging were allowed in the GF-14 designated protection area, which had disturbed the green space area [30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Special Condition No. VII].</p>		<p>iv) Install concrete washout pits in accordance with the requirements of the previously approved Edwards Aquifer protection plan, maintain all concrete washout pits to prevent the overflow and discharge of solids from the pits, and remove all concrete solids located outside any of the pits; and</p> <p>v) Remove all accumulated sediments and dirt ramps from the streets and implement a sediment removal schedule sufficient to prevent the accumulation of sediments in the streets and offsite impacts.</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions No. 2.a.i. through 2.a.v.; and</p> <p>c) Within 90 days after the effective date of this Agreed Order, submit written certification of the approval of a modified Edwards Aquifer protection plan for any changes in the construction and/or best management practices utilized at the Site including, but not limited to the fire station construction and the sedimentation/filtration basin requirements and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public.</p>
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9) Failure to remove accumulated sediments and dirt ramps from paved streets, which function as a part of the stormwater drainage system [30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 11].		
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Additional ID No(s): TCEQ Registration No. 13-04012802



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	5-Feb-2007	Screening	20-Mar-2007	EPA Due	
	PCW	18-Jul-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	100 Century Oaks, Ltd. dba Wortham Oaks		
Reg. Ent. Ref. No.	RN104151444		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32024	No. of Violations	7
Docket No.	2007-0489-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Enf. Coordinator	Catherine Albrecht
Multi-Media	Municipal Solid Waste	EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$33,500

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.

Total EB Amounts 0% Enhancement* Subtotal 6 \$0
 Approx. Cost of Compliance \$3,189 *Capped at the Total EB \$ Amount
\$50,000

SUM OF SUBTOTALS 1-7 Final Subtotal \$33,500

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 \$33,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$33,500

DEFERRAL 20% Reduction Adjustment -\$6,700

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

Notes:

Deferral is offered for an expedited settlement.

PAYABLE PENALTY \$26,800

Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

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%
<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) 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 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 330.15(a)(3), Edwards Aquifer Protection Program ("EAPP") ID No. 2130.00, Special Condition No. VII and Tex. Water Code § 26.121(c)

Violation Description Failed to prevent the unauthorized discharge of paint over-spray wastes from painting activities in the sensitive geological feature GF-14 protection area. Specifically, the investigator documented on November 1, 2006, red paint accumulations on the soil.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Failure to prevent the disposal of paint on the ground surface exposed human health or the environment to an insignificant amount of pollutants through the release of contaminated stormwater runoff.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the investigation date of November 1, 2006 to the compliance date of January 11, 2007.

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: 100 Century Oaks, Ltd. dba Wortham Oaks
Case ID No.: 32024
Reg. Ent. Reference No.: RN104151444
Media: Edwards Aquifer
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

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	\$2,500	1-Nov-2006	11-Jan-2007	0.2	\$24	n/a	\$24
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of the removal and disposal of contaminated soil. Date required is the investigation date. Final date is the 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

\$24

Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP ID No. 2130.00, Special Condition No. II

Violation Description

Failed to provide operational sedimentation/filtration basins prior to occupancy of any residences within the respective drainage areas, as documented during the November 1, 2006 investigation. Specifically, Basin A and Basin B were not operational when homes located in the respective drainage areas for both were occupied.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide permanent BMPs could expose human health or the environment to a significant amount of pollutants through the release of contaminated stormwater runoff.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5

139 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$12,500

Five monthly events are recommended from the investigation date of November 1, 2006 to the screening date of March 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$700

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

Economic Benefit Worksheet

Respondent: 100 Century Oaks, Ltd. dba Wortham Oaks
 Case ID No. 32024
 Reg. Ent. Reference No. RN104151444
 Media: Edwards Aquifer
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	1-Nov-2006	1-Nov-2007	1.0	\$33	\$667	\$700
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 costs of the completion of two sedimentation/filtration basins based on \$5,000 per basin. Date required is the investigation date. Final date is the projected 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

\$10,000

TOTAL

\$700

Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 6

Violation Description

Failed to construct and maintain sediment control structures throughout the Site as specified in the approved Edwards Aquifer Water Pollution Abatement Plan ("WPAP"), as documented during the November 1, 2006 investigation. Specifically, silt fences were not installed in three locations, rock berms were not installed in three locations, a silt fence installed around the sensitive feature GF-14 had not been maintained, inlet protection structures were not installed and maintained throughout the Site, and temporary sedimentation/filtration basins had not been installed for the drainage areas of Basin B, Basin C, and Basin D during construction.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent	
						0%	

Matrix Notes

Failure to provide temporary BMPs could expose human health or the environment to a significant amount of pollutants through the release of contaminated stormwater runoff.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 5 Number of violation days 139

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$12,500

Five monthly events are recommended from the investigation date of November 1, 2006 to the screening date of March 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,890

Violation Final Penalty Total \$12,500

This violation Final Assessed Penalty (adjusted for limits) \$12,500

Economic Benefit Worksheet

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks
Case ID No. 32024
Reg. Ent. Reference No. RN104151444
Media Edwards Aquifer
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$27,000	1-Nov-2006	1-Nov-2007	1.0	\$90	\$1,800	\$1,890
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 costs of installing and/or maintaining silt fences and rock berms based on \$1000 per structure and the inlet structures is \$5,000 and for excavating temporary sedimentation/filtration basins based on \$5,000 per basin. Date required is the investigation date. Final date is the projected 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	\$27,000	TOTAL	\$1,890
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Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j)(2) and EAPP ID No. 2130.00, Standard Condition No. 4

Violation Description Failed to submit and obtain approval of modifications to an Edwards Aquifer Protection Plan prior to conducting regulated activities not previously identified in the approved plan, as documented on December 5, 2006. Specifically, a fire station was constructed on the Site, which was approved for single family residential development only.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 104

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four monthly events are recommended from the date the violation was documented on December 5, 2006 to the screening date of March 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$134

Violation Final Penalty Total \$4,000

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

Economic Benefit Worksheet

Respondent: 100 Century Oaks, Ltd. dba Wortham Oaks
Case ID No.: 32024
Reg. Ent. Reference No.: RN104151444
Media: Edwards Aquifer
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

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

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	5-Dec-2006	1-Jan-2008	1.1	\$134	n/a	\$134
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs associated with preparing, submitting, and obtaining approval to modify an EAPP. Date required is the investigation date. Final date is the projected 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 \$134

Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 213.4(k) and 330.15(a)(3) and EAPP ID No. 2130.00, Standard Condition No. 6

Violation Description

Failed to properly install or maintain concrete truck washout pits as specified in the general details of the approved WPAP, as documented during the November 1, 2006 investigation. Specifically, the concrete washout pit in Basin D was not properly installed, concrete washout was discharged in two locations not contained within a pit, and a second pit was not maintained to prevent the discharge of concrete washout outside of the pit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to provide temporary BMPs could expose human health or the environment to an insignificant amount of pollutants through the release of contaminated stormwater runoff.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 Number of violation days 139

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended from the investigation date of November 1, 2006 through the screening date of March 20, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$140

Violation Final Penalty Total \$2,000

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

Economic Benefit Worksheet

Respondent: 100 Century Oaks, Ltd. dba Wortham Oaks
Case ID No.: 32024
Reg. Ent. Reference No.: RN104151444
Media: Edwards Aquifer
Violation No.: 5

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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,000	1-Nov-2006	1-Nov-2007	1.0	\$7	\$133	\$140
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 costs of installing concrete washout pits according to the approved plan based on \$1,000 per pit. Date required is the investigation date. Final date is the projected 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

\$2,000

TOTAL

\$140

Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP ID No. 2130.00, Special Condition No. VII

Violation Description Failed to comply with the approved plan by conducting unauthorized regulated activities within the GF-14 protection area where no such activities were allowed, as documented during the November 1, 2006 investigation. Specifically, a temporary construction access road, equipment, and materials staging were allowed in the GF-14 designated protection area, which had disturbed the green space area.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Conducting construction activities that disturb the protective green space in a geologically sensitive area could expose human health or the environment to a significant amount of pollutants through the release of contaminated stormwater runoff.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 72 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of November 1, 2006 to the compliance date of January 11, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks
Case ID No. 32024
Reg. Ent. Reference No. RN104151444
Media Edwards Aquifer
Violation No. 6

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				0.0	\$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

Economic benefit calculated for this violation is included in violation 4.

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

\$0

TOTAL

\$0

Screening Date 20-Mar-2007

Docket No. 2007-0489-MLM-E

PCW

Respondent 100 Century Oaks, Ltd. dba Wortham Oaks

Policy Revision 2 (September 2002)

Case ID No. 32024

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN104151444

Media [Statute] Edwards Aquifer

Enf. Coordinator Catherine Albrecht

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 11

Violation Description Failed to remove accumulated sediments and dirt ramps from the paved streets, which function as a part of the storm water drainage system, as documented during the November 1, 2006 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			x	

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes Failure to remove accumulated sediments from the roads could expose human health or the environment to an insignificant amount of pollutants through the release of contaminated stormwater runoff.

Adjustment \$9,500

\$500

Violation Events

	1	139	Number of violation days
mark only one with an x	daily		Violation Base Penalty \$500
	monthly		
	quarterly		
	semiannual		
	annual		
single event	x		

One single event is recommended based on the investigation date of November 1, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$300

Violation Final Penalty Total \$500

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

Economic Benefit Worksheet

Respondent: 100 Century Oaks, Ltd. dba Wortham Oaks
 Case ID No: 32024
 Reg. Ent. Reference No: RN104151444
 Media: Edwards Aquifer
 Violation No: 7

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				0.0	\$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	\$6,000	1-Nov-2006	1-Nov-2007	1.0	\$300	n/a	\$300
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for the cleanup of all sediment escaping from the construction site based on \$500 per month.
Date required is the investigation date. Final date is the projected 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

\$300

Compliance History

Customer/Respondent/Owner-Operator: CN602712721 100 Century Oaks, Ltd. Rating: 3.01 Classification: AVERAGE BY DEFAULT
Regulated Entity: RN104151444 WORTHAM OAKS Site Rating: 3.01 Classification: AVERAGE BY DEFAULT
ID Number(s): EDWARDS AQUIFER REGISTRATION 13-04012802
EDWARDS AQUIFER REGISTRATION 13-04012802A
Location: North of Evans Rd between Hanging Oak and Angostura Blvd, Bexar County Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: March 21, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 21, 2002 to March 21, 2007
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership 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.)
1 02/01/2007 (531136)
 - 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
ENFORCEMENT ACTION
CONCERNING
100 CENTURY OAKS, LTD. DBA
WORTHAM OAKS
RN104151444

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0489-MLM-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 100 Century Oaks, Ltd. dba Wortham Oaks ("Century Oaks") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Century Oaks appear before the Commission and together stipulate that:

1. Century Oaks owns and operates a residential subdivision construction site known as Wortham Oaks Units 1 through 4 located north of Evans Road between Hanging Oak and Angostura Boulevard in Bexar County, Texas (the "Site").
2. Century Oaks has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
4. The Commission and Century Oaks agree that the Commission has jurisdiction to enter this Agreed Order, and that Century Oaks is subject to the Commission's jurisdiction.
5. Century Oaks received notice of the violations alleged in Section II ("Allegations") on or about February 5, 2007.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Century Oaks of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of Thirty-Three Thousand Five Hundred Dollars (\$33,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Century Oaks has paid Twenty-Six Thousand Eight Hundred Dollars (\$26,800) of the administrative penalty and Six Thousand Seven Hundred Dollars (\$6,700) is deferred contingent upon Century Oaks' 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 Century Oaks fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Century Oaks to pay all or part of the deferred penalty.
8. 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.
9. The Executive Director of the TCEQ and Century Oaks have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director recognizes that Century Oaks has implemented the following corrective measures at the Site:
 - a. On January 11, 2007, removed construction materials and debris and paint-contaminated soil and completed the revegetation of the impacted soils in the GF-14 protection area; and
 - b. On May 25, 2007, completed the installation of three additional silt fences and three additional rock berms not previously provided as required by the approved Edwards Aquifer Water Pollution Abatement Plan ("WPAP") and repaired the silt fence surrounding the GF-14 protection area.
11. 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 Century Oaks has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.
13. 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, Century Oaks is alleged to have:

1. Failed to prevent the unauthorized discharge of paint over-spray wastes from painting activities in the sensitive geological feature GF-14 protection area, in violation of 30 TEX. ADMIN. CODE § 330.15(a)(3), Edwards Aquifer Protection Program ("EAPP") ID No. 2130.00, Special Condition No. VII and TEX. WATER CODE § 26.121(c), as documented during an investigation conducted on November 1, 2006. Specifically, the investigator documented on November 1, 2006, red paint accumulations on the soil.
2. Failed to provide operational sedimentation/filtration basins prior to occupancy of any residences within the respective drainage areas, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Special Condition No. II, as documented during an investigation conducted on November 1, 2006. Specifically, Basin A and Basin B were not operational when homes located in the respective drainage areas for both were occupied.
3. Failed to construct and maintain silt fences and rock berms as specified in the approved WPAP, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 6, as documented during an investigation conducted on November 1, 2006. Specifically, silt fences were not installed in three locations, rock berms were not installed in three locations, and a silt fence installed around the sensitive feature GF-14 had not been maintained.
4. Failed to provide sedimentation/filtration basins for use as temporary sedimentation basins during construction, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 6, as documented during an investigation conducted on November 1, 2006. Specifically, temporary sedimentation/filtration basins had not been excavated for the drainage areas of Basin B, Basin C, and Basin D during construction.
5. Failed to install or maintain inlet protection throughout the Site as specified in the approved WPAP, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 6, as documented during an investigation conducted on November 1, 2006.
6. Failed to submit and obtain approval of modifications to an Edwards Aquifer protection plan prior to conducting regulated activities not previously identified in the approved plan, in violation of 30 TEX. ADMIN. CODE § 213.4(j)(2) and EAPP ID No. 2130.00, Standard Condition No. 4, as documented during an investigation conducted on December 5, 2006. Specifically, a fire station was constructed on the Site, which was approved for single family residential development only.
7. Failed to properly install and/or maintain concrete truck washout pits as specified in the general details of the approved WPAP, in violation of 30 TEX. ADMIN. CODE §§ 213.4(k) and 330.15(a)(3) and EAPP ID No. 2130.00, Standard Condition No. 6, as documented during an investigation conducted on November 1, 2006. Specifically, the concrete washout pit in Basin D was not properly installed, concrete washout was discharged in two locations not contained within a pit, and a second pit was not maintained to prevent the discharge of concrete washout outside of the pit.
8. Failed to comply with the approved plan by conducting unauthorized regulated activities within the GF-14 protection area where no such activities were allowed, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Special Condition No. VII, as documented during an investigation conducted on November 1, 2006. Specifically, a temporary construction access road and equipment and materials staging were allowed in the GF-14 designated protection area, which had disturbed the green space area.

9. Failed to remove accumulated sediments and dirt ramps from paved streets, which function as a part of the stormwater drainage system, in violation of 30 TEX. ADMIN. CODE § 213.4(k) and EAPP ID No. 2130.00, Standard Condition No. 11, as documented during an investigation conducted on November 1, 2006.

III. DENIALS

Century Oaks generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Century Oaks pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and Century Oaks' 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: 100 Century Oaks, Ltd. dba Wortham Oaks, Docket No. 2007-0489-MLM-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 Century Oaks shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Install temporary sedimentation/filtration basins in all drainage areas where construction has been initiated and operational basins have not been completed, as required by EAPP ID No. 2130.00, Standard Condition No. 6 and complete the installation of operational sedimentation/filtration basins in drainage areas with occupied homes, as required by EAPP ID No. 2130.00, Special Condition No. II; or submit to the TCEQ San Antonio Regional Office for approval, a modification of the previously approved Edwards Aquifer protection plan to revise the sedimentation/filtration basin requirements;
 - ii. Install inlet structures, as required by the Edwards Aquifer approved plan, as required by EAPP ID No. 2130.00, Standard Condition No. 6;
 - iii. Submit to the TCEQ San Antonio Regional Office for approval, a modification of the previously approved Edwards Aquifer protection plan to add the construction of the fire station, as required by EAPP ID No. 2130.00, Standard Condition No. 4 or documentation that the fire station has been removed;

- iv. Install concrete washout pits in accordance with the requirements of the previously approved Edwards Aquifer protection plan, maintain all concrete washout pits to prevent the overflow and discharge of solids from the pits, and remove all concrete solids located outside any of the pits, as required by EAPP ID No. 2130.00, Standard Condition No. 6; and
 - v. Remove all accumulated sediments and dirt ramps from the streets and implement a sediment removal schedule sufficient to prevent the accumulation of sediments in the streets and offsite impacts, as required by EAPP ID No. 2130.00, Standard Condition No. 11.
- b. Within 45 days after the effective day of this order, submit written certification of compliance with Ordering Provisions No. 2.a.i. through 2.a.v., as described below in Ordering Provision No. 2.c.;
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of the approval of a modified Edwards Aquifer protection plan for any changes in the construction and/or best management practices utilized at the Site including, but not limited to the fire station construction and the sedimentation/filtration basin requirements as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification 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:

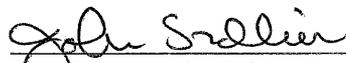
Water Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Century Oaks. Century Oaks 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 Century Oaks 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, Century Oaks' failure to comply is not a violation of this Agreed Order. Century Oaks shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Century Oaks shall notify the Executive Director within seven days after Century Oaks 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 Century Oaks shall be made in writing to the Executive Director. Extensions are not effective until Century Oaks 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 Century Oaks 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 Century Oaks, or three days after the date on which the Commission mails notice of the Order to Century Oaks, 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



For the Executive Director

Date 12/14/07

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.



Signature

Date 11/27/07

Charles Claiborne
Name (Printed or typed)
Authorized Representative of
100 Century Oaks, Ltd. dba Wortham Oaks

President
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.

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