

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1252-WQ-E **TCEQ ID:** RN104488531 **CASE NO.:** 34357

RESPONDENT NAME: Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community

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 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 checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 162 Stagecoach Circle, Copperas Cove, Coryell County</p> <p>TYPE OF OPERATION: Wastewater collection system manhole</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 26, 2007, alleging a sewer overflow was creating a nuisance. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 14, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, (512) 239-4493, MC 169; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Leo Strychalski, Registered Agent, Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community, 8622 South Zarzamora, San Antonio, Texas 78224 Mr. Ray K. Farris II, CEO, Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community, 1515 The Alameda, Suite 200, San Jose, California 95126 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 26, 2007</p> <p>Date of Investigation Relating to this Case: May 29, 2007 and April 2, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 25, 2007 and July 26, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to report an unauthorized discharge of untreated wastewater within 24 hours after the occurrence. Specifically, the Respondent failed to notify the TCEQ of an unauthorized discharge from a manhole located at 162 Stagecoach Circle that occurred on or about April 2, 2007 within 24 hours of the occurrence [TEX. WATER CODE § 26.039(b)].</p> <p>2) Failure to prevent the unauthorized discharge of untreated wastewater. Specifically, on April 2, 2007 and May 29, 2007 unauthorized discharges of untreated wastewater occurred from a manhole located at 162 Stagecoach Circle. Approximately 40,800 gallons of untreated wastewater was discharged as a result of these unauthorized discharges [TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$3,300</p> <p>Total Deferred: \$660 <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: \$2,640</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>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. On or about April 4, 2007, cleaned up the affected area, put lime on the ground, and put fresh, clean soil on the ground; and</p> <p>b. On or about June 5, 2007, cleaned up the affected area, put lime on the ground, and put fresh, clean soil on the ground.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the collection system to evaluate the causes and necessary corrective actions to reduce inflow and infiltration ("I/I") on the collection system. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Agreed Order; and</p> <p>b. Within 285 days after the effective date of this Agreed Order, submit written certification of completion of the I/I mitigation and collection system rehabilitation work as described below and include detailed supporting documentation including photographs, receipts, DMRs, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	26-Jul-2007	Screening	1-Aug-2007	EPA Due	
	PCW	31-Aug-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community
Reg. Ent. Ref. No.	RN104488531
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	34357	No. of Violations	2	
Docket No.	2007-1252-WQ-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell	
Multi-Media		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	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10% Enhancement	Subtotals 2, 3, & 7	\$300
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Notes: The Respondent received two NOVs for the same violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

Subtotal 6	\$0
Total EB Amounts	\$875
Approx. Cost of Compliance	\$10,200
*Capped at the Total EB \$ Amount	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$3,300
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,300
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DEFERRAL	20% Reduction	Adjustment	-\$660
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,640
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Screening Date 1-Aug-2007

Docket No. 2007-1252-WQ-E

PCW

Respondent Westwind Enterprises, Ltd. dba Cedar Grove Manufactur

Policy Revision 2 (September 2002)

Case ID No. 34357

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104488531

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

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)	2	10%
	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) 10%

>> **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

The Respondent received two NOVs for the same violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 1-Aug-2007

Docket No. 2007-1252-WQ-E

PCW

Respondent Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home

Policy Revision 2 (September 2002)

Case ID No. 34357

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104488531

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s)

Tex. Water Code § 26.039(b)

Violation Description

Failed to report an unauthorized discharge of untreated wastewater within 24 hours after the occurrence. Specifically, the Respondent failed to notify the TCEQ of an unauthorized discharge from a manhole located at 162 Stagecoach Circle that occurred on or about April 2, 2007 within 24 hours of the occurrence.

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

OR

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

100% of this rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended.

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 Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community
Case ID No. 34357
Reg. Ent. Reference No. RN104488531
Media Water Quality
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
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	3-Apr-2007	20-Jun-2007	0.2	\$0	\$1	\$1
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

This is the estimated cost to report the unauthorized discharge to the TCEQ within 24 hours of the occurrence. The date required is 24 hours after the unauthorized discharge occurred and the final date is the date that the Respondent notified the TCEQ Waco Regional Office of the violation.

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

\$100

TOTAL

\$1

Screening Date 1-Aug-2007

Docket No. 2007-1252-WQ-E

PCW

Respondent Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home

Policy Revision 2 (September 2002)

Case ID No. 34357

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104488531

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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 Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community
Case ID No. 34357
Reg. Ent. Reference No. RN104488531
Media Water Quality
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
No commas or \$							

Delayed Costs

Equipment	\$5,000	2-Apr-2007	30-Jun-2008	1.2	\$21	\$416	\$436
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	2-Apr-2007	30-Jun-2008	1.2	\$21	\$416	\$436
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	\$100	2-Apr-2007	5-Jun-2007	0.2	\$1	n/a	\$1
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs
 This is the estimated cost to repair and/or replace the collection system line and manhole where the unauthorized discharges have occurred and the cost to clean up, disinfect, and properly dispose of contaminated soil at the location of the unauthorized discharges.

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

\$10,100

TOTAL

\$873

Compliance History

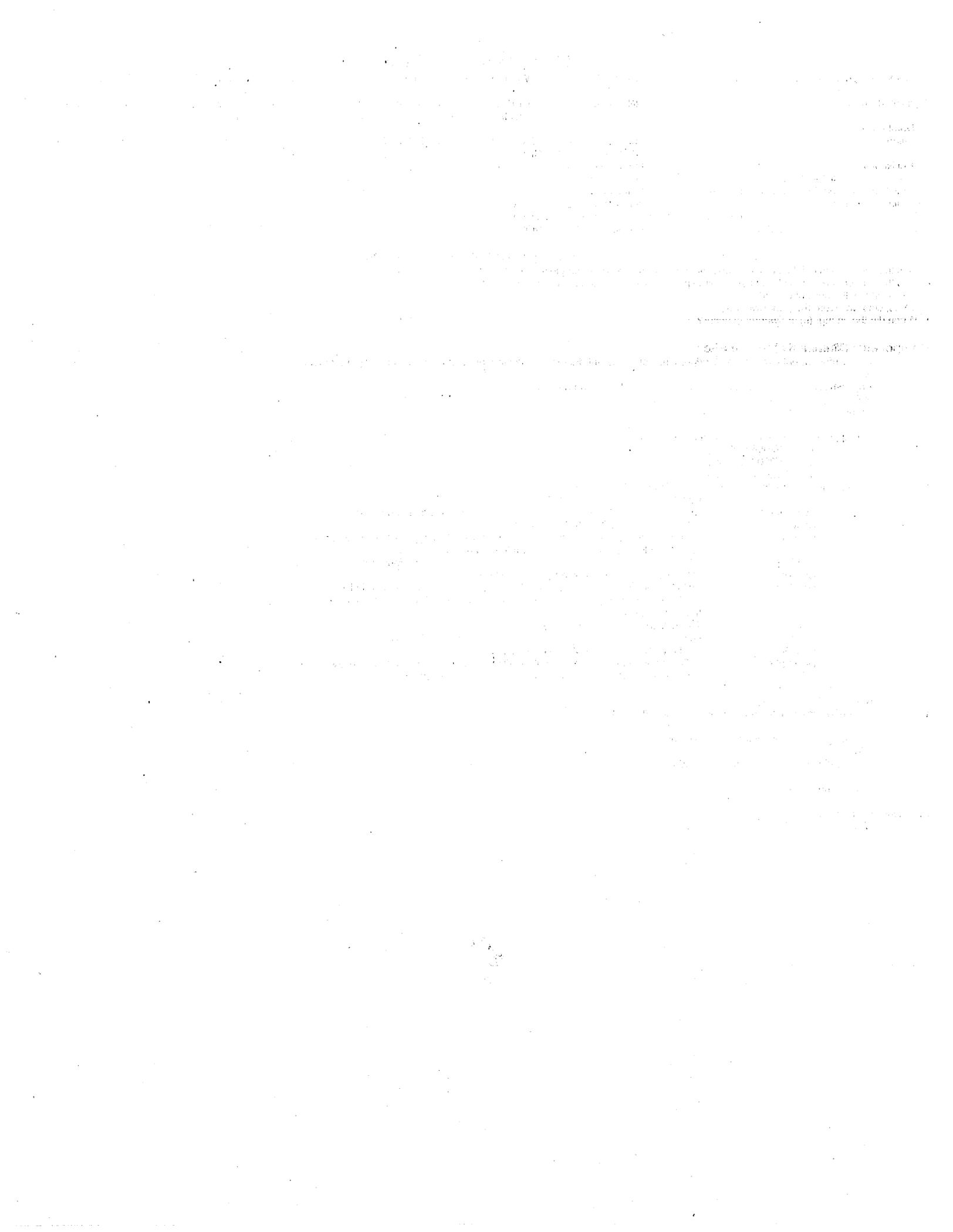
Customer/Respondent/Owner-Operator:	CN601455728	Westwind Enterprises, Ltd.	Classification: AVERAGE	Rating: 1.01
			BY DEFAULT	
Regulated Entity:	RN104488531	CEDAR GROVE MANUFACTURED HOME COMMUNITY	Classification: AVERAGE	Site Rating: 3.01
			BY DEFAULT	
ID Number(s):			Rating Date: September 01 06	Repeat Violator:
Location:	100 CEDAR GROVE DR, COPPERAS COVE, TX, 76522		NO	
TCEQ Region:	162 STAGECOACH CIRCLE			
Date Compliance History Prepared:	REGION 09 - WACO			
Agency Decision Requiring Compliance History:	July 13, 2007			
Compliance Period:	Enforcement			
TCEQ Staff Member to Contact for Additional Information:	July 13, 2002 to July 13, 2007			
Name:	Pamela Campbell	Phone: 512 239-4493		

Site Compliance History Components

- | | |
|----------------------------------------------------------------------------------------------|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership 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 11/10/2006 (516549)
 - 2 01/15/2007 (532885)
 - 3 01/23/2007 (513190)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 02/18/2005 (344914)
 - Self Report? NO Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 - Description: Failure by the subscriber to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.
 - Self Report? NO Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)
 - Description: Failure by the subscriber to orally notify the TCEQ of an unauthorized discharge within 24 hours and provide written notification within 5 days of becoming aware of the noncompliance.
 - Date: 10/27/2005 (432096)
 - Self Report? NO Classification: Moderate
 - Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 - Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.
 - 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
WESTWIND ENTERPRISES, LTD.
DBA CEDAR GROVE
MANUFACTURED HOME
COMMUNITY
RN104488531

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1252-WQ-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 Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community ("Westwind Enterprises") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Westwind Enterprises appear before the Commission and together stipulate that:

1. Westwind Enterprises owns and operates a wastewater collection system manhole located at 162 Stagecoach Circle in Copperas Cove, Coryell County, Texas (the "Site").
2. Westwind Enterprises has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Westwind Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Westwind Enterprises is subject to the Commission's jurisdiction.
4. Westwind Enterprises received notice of the violations alleged in Section II ("Allegations") on or about May 30, 2007 and July 31, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Westwind Enterprises of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Three Hundred Dollars (\$3,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Westwind Enterprises has paid Two Thousand Six Hundred Forty Dollars (\$2,640) of the administrative penalty and Six Hundred Sixty Dollars (\$660) is deferred contingent upon Westwind Enterprises' 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 Westwind Enterprises fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Westwind Enterprises 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 Westwind Enterprises 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 Westwind Enterprises has implemented the following corrective measures at the Site:
 - a. On or about April 4, 2007, cleaned up the affected area, put lime on the ground, and put fresh, clean soil on the ground; and
 - b. On or about June 5, 2007, cleaned up the affected area, put lime on the ground, and put fresh, clean soil on the ground.
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 Westwind Enterprises 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, Westwind Enterprises is alleged to have:

1. Failed to report an unauthorized discharge of untreated wastewater within 24 hours after the occurrence, in violation of TEX. WATER CODE § 26.039(b), as documented during an investigation conducted on April 2, 2007. Specifically, Westwind Enterprises failed to notify the TCEQ of an unauthorized discharge from a manhole located at 162 Stagecoach Circle that occurred on or about April 2, 2007 within 24 hours of the occurrence.

2. Failed to prevent the unauthorized discharge of untreated wastewater, in violation of TEX. WATER CODE § 26.121(a)(1), as documented during investigations conducted on April 2, 2007 and May 29, 2007. Specifically, on April 2, 2007 and May 29, 2007 unauthorized discharges of untreated wastewater occurred from a manhole located at 162 Stagecoach Circle. Approximately 40,800 gallons of untreated wastewater was discharged as a result of these unauthorized discharges.

III. DENIALS

Westwind Enterprises generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Westwind Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Westwind Enterprises' 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: Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community, Docket No. 2007-1252-WQ-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 Westwind Enterprises shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the collection system to evaluate the causes and necessary corrective actions to reduce inflow and infiltration ("I/I") on the collection system. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Agreed Order. Westwind Enterprises shall provide a copy of the plan and schedule to the Order Compliance Team of the TCEQ Enforcement Division and to the TCEQ Waco Regional Office; and
 - b. Within 285 days after the effective date of this Agreed Order, submit written certification of completion of the I/I mitigation and collection system rehabilitation work as described below and include detailed supporting documentation including photographs, receipts, DMRs, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

1. The first part of the document is a letter from the author to the editor of the journal. The letter discusses the author's interest in the journal and the author's qualifications for the position. The author mentions that they have a Ph.D. in the field and have published several papers in the area. The author also mentions that they have been teaching the subject for several years and are looking for a position where they can continue to research and teach. The letter concludes with a request for the editor to consider the author for the position.

2. The second part of the document is a letter from the editor to the author. The editor thanks the author for their letter and expresses interest in the author's qualifications. The editor mentions that they will be looking at the author's work and will get back to the author as soon as possible. The editor also mentions that they will be looking for someone who is interested in the field and who has the necessary qualifications. The letter concludes with a request for the author to provide more information about their work and qualifications.

APPENDIX A

1. The first part of the appendix is a list of the author's publications. The list includes the title of the publication, the journal name, and the year of publication. The list is as follows:

REFERENCES

1. Smith, J. (2010). The effects of climate change on the environment. *Journal of Environmental Science*, 12(3), 45-55.

2. Jones, M. (2011). The impact of climate change on human health. *Journal of Public Health*, 13(4), 67-78.

3. Brown, K. (2012). The role of government in addressing climate change. *Journal of Policy Analysis*, 15(2), 101-115.

4. White, L. (2013). The economic consequences of climate change. *Journal of Economic Surveys*, 27(1), 1-25.

5. Black, N. (2014). The social costs of climate change. *Journal of Social Issues*, 70(1), 1-15.

6. Green, P. (2015). The ethical implications of climate change. *Journal of Business Ethics*, 128(3), 401-415.

7. Gray, Q. (2016). The political challenges of climate change. *Journal of Political Science*, 137(2), 234-250.

8. Hall, R. (2017). The legal aspects of climate change. *Journal of Law and Environment*, 30(1), 1-15.

9. King, S. (2018). The future of climate change research. *Journal of Environmental Science*, 20(4), 567-580.

10. Lee, T. (2019). The role of science in climate change policy. *Journal of Science and Technology*, 41(3), 345-360.

11. The second part of the appendix is a list of the author's degrees and awards. The list includes the name of the institution, the degree or award, and the year received. The list is as follows:

12. Ph.D. in Environmental Science, University of California, Berkeley, 2005.

13. M.S. in Environmental Science, University of California, Berkeley, 2003.

14. B.S. in Environmental Science, University of California, Berkeley, 2001.

15. Fulbright Fellowship, 2008-2009.

16. Distinguished Lecturer Award, 2012.

17. The third part of the appendix is a list of the author's current and past positions. The list includes the name of the institution, the position, and the dates held. The list is as follows:

18. Professor of Environmental Science, University of California, Berkeley, 2005-present.

19. Assistant Professor of Environmental Science, University of California, Berkeley, 2003-2005.

20. Research Assistant, University of California, Berkeley, 2001-2003.

21. Visiting Professor, University of Michigan, 2008-2009.

22. Senior Lecturer, University of California, Berkeley, 2010-2012.

"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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

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

The Journal is published weekly, except during the months of August and September, when it is published bi-weekly. The subscription price for a single copy is \$1.00. The subscription price for a year is \$12.00 in advance. Single copies are sent free to members of the American Medical Association. The Journal is published by the American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610. Second-class postage paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes in Chicago, Ill., to JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION, 535 North Dearborn Street, Chicago, Ill. 60610. Send address changes in other cities to the nearest office of the American Medical Association. The Journal is published by the American Medical Association, 535 North Dearborn Street, Chicago, Ill. 60610.

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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 Westwind Enterprises, or three days after the date on which the Commission mails notice of the Order to Westwind Enterprises, 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

12/20/2007
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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

10-17-07
Date

Ray K. FARRIS II
Name (Printed or typed)

CEO
Title

Authorized Representative of

Westwind Enterprises, Ltd. dba Cedar Grove Manufactured Home Community

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.

