EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-2005-PWS-E **TCEQ ID:** RN105215651 **CASE NO.:** 35109

RESPONDENT NAME: Lake Whitney Resorts, LLC

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

SITE WHERE VIOLATION(S) OCCURRED: Lake Whitney RV & Golf, 255 Suncountry Drive, Whitney, Hill County

TYPE OF OPERATION: Public water supply

SMALL BUSINESS: __X__ **Yes** ____ **No**

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 19, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4033; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Paul S. Bissing, Owner/Registered Agent, Lake Whitney Resorts, LLC, P.O. Box 1577, Whitney, Texas 76692

Respondent's Attorney: Ms. Patricia Coy, Clifton Law Office, P.O. Box 547, Clifton, Texas 76634

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** **Date of Investigation Relating to this Case:** March 12, 2007 and November 12, 2007 **Date of NOV/NOE Relating to this Case:** May 15, 2007 (NOV) and December 10, 2007 (NOE) **Background Facts:** A record review and routine investigation was conducted. **WATER** 1) Failed to provide written notification to the Commission of the startup of a new public water system [30 TEX. ADMIN. CODE § 290.39(m)]. 2) Failed to submit engineering reports prior to activating a new public water system [30 TEX. ADMIN. CODE § 290.39(e)(1) and TEX. HEALTH & SAFETY CODE § 341.035(c)]. 3) Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute ("gpm") per connection and a minimum pressure of 20 psi during emergencies such as fire fighting [30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r)].	**Total Assessed:** $1,522 **Total Deferred:** $304 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $218 (remaining $1,000 due in 5 monthly payments of $200 each) **Site Compliance History Classification** __ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that on May 1, 2007, start-up notification was provided from the Waco Regional Office staff confirming that the system is active. **Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions; and ii. Submit as-built plans, specifications, and engineering reports for the Facility. b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.

Additional ID No(s).: PWS 1090075

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 6, 2007*

TCEQ

DATES					
Assigned	10-Dec-2007				
PCW	14-Dec-2007	Screening	14-Dec-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Lake Whitney Resorts, LLC		
Reg. Ent. Ref. No.	RN105215651		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35109	No. of Violations	3
Docket No.	2007-2005-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Enf. Coordinator	Epifanio Villarreal
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty $ Limit Minimum	$50	Maximum	$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $1,450

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 5% Enhancement — *Subtotals 2, 3, & 7* $72

Notes: The penalty enhancement is due to one prior Notice of Violation containing violations that are the same as or similiar to the violations in the current enforcement action.

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

Notes: The Respondent does not meet the culpability criteria.

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

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$586
Approx. Cost of Compliance	$6,200

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $1,522

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $1,522

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $1,522

DEFERRAL — 20% Reduction — *Adjustment* -$304

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $1,218

Screening Date 14-Dec-2007 **Docket No.** 2007-2005-PWS-E **PCW**

Respondent Lake Whitney Resorts, LLC

Policy Revision 2 (September 2002)

Case ID No. 35109

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105215651

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

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*)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty enhancement is due to one prior Notice of Violation containing violations that are the same as or similar to the violations in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 14-Dec-2007 **Docket No.** 2007-2005-PWS-E **PCW**

Respondent Lake Whitney Resorts, LLC *Policy Revision 2 (September 2002)*

Case ID No. 35109 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN105215651

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.39(m)

Violation Description Failed to provide written notification to the Commission of the startup of a new public water system.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $900

$100

Violation Events

Number of Violation Events 1

32 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $105

This violation Final Assessed Penalty (adjusted for limits) $105

Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC
Case ID No. 35109
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
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)	$200	12-Mar-2007	1-May-2007	0.1	$0	$2	$2
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	The delayed cost includes the amount to prepare and submit written notification to the Commission, calculated from the date of the initial investigation documenting the violation to 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: $200

TOTAL: $2

Screening Date 14-Dec-2007 **Docket No.** 2007-2005-PWS-E **PCW**

Respondent Lake Whitney Resorts, LLC *Policy Revision 2 (September 2002)*

Case ID No. 35109 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN105215651

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.39(e)(1) and Tex. Health & Safety Code § 341.035(c)

Violation Description Failed to submit engineering reports prior to activating a new public water system.

Base Penalty $1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $900

$100

Violation Events

Number of Violation Events 1 | 32 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $97

Statutory Limit Test

Violation Final Penalty Total $105

This violation Final Assessed Penalty (adjusted for limits) $105

Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC
Case ID No. 35109
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$1,000	12-Mar-2007	1-Aug-2008	1.4	$5	$93	$97
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: The delayed cost includes the amount to submit an engineering report, calculated from the date of the initial investigation documenting the violation to the estimated date to compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs (ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs))							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $1,000

TOTAL: $97

Screening Date 14-Dec-2007 **Docket No.** 2007-2005-PWS-E **PCW**

Respondent Lake Whitney Resorts, LLC *Policy Revision 2 (September 2002)*

Case ID No. 35109 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN105215651

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.44(d) and 290.46(r)

Violation Description Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute ("gpm") per connection and a minimum pressure of 20 psi during emergencies such as fire fighting. Specifically, on March 12 through March 15, 2007, a pressure logger was placed in the distribution system and recorded pressures below 20 psi on five occasions.

Base Penalty $1,000

>> 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: Inadequate pressure throughout the distribution system, could result in water outages and backflow problems that could expose customers to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment $750

$250

Violation Events

Number of Violation Events 5 | 4 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,250

Five single events are recommeded.

Economic Benefit (EB) for this violation

Estimated EB Amount $487

Statutory Limit Test

Violation Final Penalty Total $1,312

This violation Final Assessed Penalty (adjusted for limits) $1,312

Economic Benefit Worksheet

Respondent Lake Whitney Resorts, LLC
Case ID No. 35109
Reg. Ent. Reference No. RN105215651
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$5,000	12-Mar-2007	1-Aug-2008	1.4	$23	$464	$487
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	The delayed cost includes the amount to increase pressure throughout the distribution system to a minimum of 35 psi at all times, calculated from the date when the system's pressure dropped below 35 psi to the estimated 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 $5,000

TOTAL $487

Compliance History

Customer/Respondent/Owner-Operator:	CN603182981	Lake Whitney Resorts, LLC	Classification:	Rating:
Regulated Entity:	RN105215651	LAKE WHITNEY RV & GOLF	Classification:	Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1090075

Location: 255 SUNCOUNTRY DRIVE, WHITNEY, TX, HILL COUNTY

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: December 12, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 11, 2002 to December 11, 2007

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

Name: Epi Villarreal Phone: (210) 403-4033

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.)

08/03/2007 (568723)

12/07/2007 (598787)

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

Date: 05/15/2007 (537109)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.39(m)

Description: Failure to provide written notification to the commission of the startup of a new public water supply system or reactivation of an existing public water supply system.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.39(e)(1)

Description: Failure to submit detailed engineering reports prior to activating a new PWS system.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)
30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute at each service outlet or connection.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
LAKE WHITNEY RESORTS, LLC	§	
RN105215651	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-2005-PWS-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 Lake Whitney Resorts, LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent represented by Ms. Patricia Coy, of the Clifton Law Office, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a public water supply at 255 Suncountry Drive, Whitney, Hill County, Texas (the "Facility") that has approximately 50 service connections and serves at least 25 people per day for at least 60 days per year.

2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 15, 2007.

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

5. An administrative penalty in the amount of One Thousand Five Hundred Twenty-Two Dollars ($1,522) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Eighteen Dollars ($218) of the administrative penalty and Three Hundred Four Dollars ($304) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the

Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Dollars ($1,000) of the administrative penalty shall be payable in five monthly payments of Two Hundred Dollars ($200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. 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.

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

8. The Executive Director recognizes that on May 1, 2007, start-up notification was provided from the Waco Regional Office staff confirming that the system is active.

9. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. 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 Facility, the Respondent is alleged to have:

1. Failed to provide written notification to the Commission of the startup of a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(m), as documented during a record review conducted on November 12, 2007.

2. Failed to submit engineering reports prior to activating a new public water system, in violation of 30 TEX. ADMIN. CODE § 290.39(e)(1) and TEX. HEALTH & SAFETY CODE § 341.035(c), as documented during a record review conducted on November 12, 2007.

3. Failed to operate the system to maintain a minimum pressure of 35 pounds per square inch ("psi") at all points within the distribution network at flow rates of at least 1.5 gallons per minute ("gpm") per connection and a minimum pressure of 20 psi during emergencies such as fire fighting, in violation of 30 TEX. ADMIN. CODE §§ 290.44(d) and 290.46(r), as documented during a record review conducted on November 12, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's 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: Lake Whitney Resorts, LLC, Docket No. 2007-2005-PWS-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 the Respondent shall undertake the following technical requirements:

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

      i. Begin operating the Facility so as to provide a minimum pressure of 35 psi throughout the distribution system under normal operating conditions, in accordance with 30 TEX. ADMIN. CODE § 290.46; and

      ii. Submit as-built plans, specifications, and engineering reports for the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.39. The plans, specifications, and reports shall be submitted to:

      Technical Review and Oversight Team
      Water Supply Division
      Texas Commission on Environmental Quality
      P.O. Box 13087
      Austin, Texas 78711-3087

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including

photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a. 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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 the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.

6. 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

_____ 5/2/2008
For the Executive Director 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.

Paul S Bissing 3/5/08
Signature Date

PAUL S. BISSING Owner
Name (Printed or typed) Title
Authorized Representative of
Lake Whitney Resorts, LLC

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.