

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0477-WQ-E TCEQ ID: RN105295679 CASE NO.: 35591
RESPONDENT NAME: OAKRIDGE CUSTOM HOMES, INC.

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 3909 South 42nd Street, Killeen, Bell County

TYPE OF OPERATION: Construction site

SMALL BUSINESS: 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 expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 12, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 173, (512) 239-5846
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Heather Brister, Water Enforcement Section, MC 149, (512) 239-1203

TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001

Respondent: Mr. Bill Johnson, Director, Oakridge Custom Homes, Inc., 3302 Birchwood Drive, Harker Heights, Texas 76548

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 7, 2008</p> <p>Date of NOE Relating to this Case: February 21, 2008</p> <p>Background Facts: The EDPRP was filed July 29, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on July 30, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent submitted a Storm Water Pollution Prevention Plan and a Notice of Intent to discharge storm water on February 26, 2008.</p> <p>WQ:</p> <p>1. Failed to obtain authorization to discharge storm water associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c)].</p> <p>2. Failed to prevent the unauthorized discharge of sediment and construction debris [TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$6,300</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$6,300</p> <p>The Respondent filed for bankruptcy protection under chapter 7 of the United States Code on February 18, 2009. The Respondent has not actually paid any of the assessed penalty but may be required to do so under the terms of this Order upon dismissal of the bankruptcy proceedings, until relief from the automatic stay is granted, or upon judicial determination specifically holding that the debt is non-dischargeable under Federal bankruptcy laws.</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 Action Taken: The Executive Director recognizes that the Respondent submitted a Storm Water Pollution Prevention Plan and a Notice of Intent to discharge storm water on February 26, 2008.</p> <p>Technical Requirements: The Respondent shall under take the following technical requirements:</p> <p>1. Within 30 days:</p> <ul style="list-style-type: none"> a. Ensure proper installation and maintenance of erosion and sediment controls; and b. Complete the removal and proper disposal of all sediment accumulation and construction debris from and adjacent to the storm drain of South Nolan Creek. <p>2. Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	25-Feb-2008			
	PCW	18-Jun-2008	Screening	14-Mar-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Oakridge Custom Homes, Inc.				
Reg. Ent. Ref. No.	RN105295679				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	35591	No. of Violations	2		
Docket No.	2008-0477-WQ-E	Order Type	1660		
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister		
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* **\$6,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History *Subtotals 2, 3, & 7* **\$300**
 5% Enhancement

Notes: The penalty was enhanced by one Notice of Violation for the same violation.

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

Notes: The Respondent does not meet the culpability criteria.

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

	Before NOV	NOV to EDRP/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	\$180
Approx. Cost of Compliance	\$3,500

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$6,300**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

Final Penalty Amount **\$6,300**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$6,300**

DEFERRAL *Adjustment* **\$0**
 0% Reduction

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

Notes: This is not an expedited case.

PAYABLE PENALTY **\$6,300**

Screening Date 14-Mar-2008

Docket No. 2008-0477-WQ-E

PCW

Respondent Oakridge Custom Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35591

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105295679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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)

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 penalty was enhanced by one Notice of Violation for the same violation.

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

Screening Date 14-Mar-2008

Docket No. 2008-0477-WQ-E

PCW

Respondent Oakridge Custom Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35591

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105295679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c).

Violation Description Failed to obtain authorization to discharge storm water associated with construction activities, as documented during a record review conducted on February 7, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 19

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

Violation Base Penalty \$1,000

One monthly event is recommended from the investigation date (February 7, 2008) to the date of compliance (February 26, 2008).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$72

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Oakridge Custom Homes, Inc.
Case ID No. 35591
Reg. Ent. Reference No. RN105295679
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)				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	\$2,000	8-Jun-2007	26-Feb-2008	0.7	\$72	n/a	\$72
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to develop and implement a storm water pollution prevention plan and to obtain a permit to discharge storm water at a construction site. Date Required is the date of the investigation when the violation was initially documented, and 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

\$2,000

TOTAL

\$72

Screening Date 14-Mar-2008

Docket No. 2008-0477-WQ-E

PCW

Respondent Oakridge Custom Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 35591

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105295679

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)

Violation Description Failed to prevent the unauthorized discharge of sediment and construction debris, as documented during a record review conducted on February 7, 2008. Specifically, an excessive amount of sediment and construction debris, including pieces of brick, wood, roofing material, and trash, was being discharged from the site into a storm drain and then into South Nolan Creek.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment have been exposed to significant amounts of pollutants not exceeding levels protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 36 Number of violation days

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended from the investigation date (February 7, 2008) to the enforcement screening date (March 14, 2008).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$108

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent Oakridge Custom Homes, Inc.
Case ID No. 35591
Reg. Ent. Reference No. RN105295679
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
<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				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$1,500	8-Jun-2007	14-Nov-2008	1.4	\$108	n/a	\$108
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs for labor and materials associated with erosion and sediment controls and cleanup activities. The Date Required is the date of the initially documented discharge, and the Final Date is when clean up of the receiving waters and completion of erosion control measures are expected to be completed.

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

\$1,500

TOTAL

\$108

Compliance History

Customer/Respondent/Owner-Operator: CN603222894 OAKRIDGE CUSTOM HOMES, INC Classification: AVERAGE Rating: 6.00
Regulated Entity: RN105295679 3909 S 42ND ST Classification: AVERAGE Site Rating: 6.00
ID Number(s):
Location: 3909 South 42nd Street, Killeen, Bell County, Texas Rating Date: September 01 07
Repeat Violator: NO

TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: March 13, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 13, 2003 to March 13, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Heather Brister Phone: (254) 761-3048

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.)
02/22/2008 (617386)

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

1 Date: 08/01/2007 (563731) Classification: Moderate
Self Report? NO
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Failure to obtain authorization to discharge storm water in association with a construction activity.

Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
Description: Failure to prevent an unauthorized discharge of a pollutant into or adjacent to waters of the State.

- 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
OAKRIDGE CUSTOM HOMES,
INC.;
RN105295679**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0477-WQ-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and ch. 26, 40 CODE OF FEDERAL REGULATIONS ("CFR") pt. 122, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Oakridge Custom Homes, Inc. ("Oakridge Custom Homes").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Oakridge Custom Homes owns and operates a construction site located at 3909 South 42nd Street in Killeen, Bell County, Texas (the "Site").
2. Oakridge Custom Homes has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any state water under the Texas Water Code.
3. During an investigation conducted on February 7, 2008, a TCEQ Waco Regional Office investigator documented that Oakridge Custom Homes:
 - a. Failed to obtain authorization to discharge storm water associated with construction activities; and,
 - b. Failed to prevent the unauthorized discharge of sediment and construction debris.
4. Oakridge Custom Homes received notice of the violations on or about February 26, 2008.

5. The Executive Director recognizes that Oakridge Custom Homes, on February 26, 2008, submitted a storm water pollution prevention plan and a Notice of Intent to discharge storm water.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Oakridge Custom Homes, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on July 29, 2008.
7. By letter dated July 29, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Oakridge Custom Homes with notice of the EDPRP. According to the return receipt "green card," Oakridge Custom Homes received notice of the EDPRP on July 30, 2008, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Oakridge Custom Homes received notice of the EDPRP, provided by the Executive Director. Oakridge Custom Homes failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. On or about February 18, 2009, Oakridge Custom Homes filed for bankruptcy protection pursuant to Chapter 7 of the United States Code.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Oakridge Custom Homes is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and ch. 26, 40 CFR pt. 122 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Oakridge Custom Homes failed to obtain authorization to discharge storm water associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c).
3. As evidenced by Finding of Fact No. 3.b., Oakridge Custom Homes failed to prevent the unauthorized discharge of sediment and construction debris, in violation of TEX. WATER CODE § 26.121(a).
4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Oakridge Custom Homes with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

5. As evidenced by Finding of Fact No. 8, Oakridge Custom Homes failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Oakridge Custom Homes and assess the penalty recommended by the Executive Director.
6. As evidenced by Finding of Fact No. 9, Oakridge Custom Homes filed a petition for bankruptcy relief pursuant to Chapter 7 of the United States Code. The Automatic Stay imposed by the Bankruptcy Code (specifically, 11 USC § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 USC § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 USC § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations. So long as Oakridge Custom Homes's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where Oakridge Custom Homes's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Oakridge Custom Homes for violations of the Texas Water Code and within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of six thousand three hundred dollars (\$6,300.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Oakridge Custom Homes is assessed an administrative penalty in the amount of six thousand three hundred dollars (\$6,300.00) for violations of the Texas Water Code and the rules of the

TCEQ. The assessment of this administrative penalty and Oakridge Custom Homes's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty assessed by this Order may be made out to the "Texas Commission on Environmental Quality" and sent with the notation "Re: Oakridge Custom Homes, Inc.; Docket No. 2008-0477-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. Oakridge Custom Homes shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Oakridge Custom Homes shall ensure proper installation and maintenance of erosion and sediment controls;
 - b. Within 30 days after the effective date of this Order, Oakridge Custom Homes shall complete the removal and proper disposal of all sediment accumulation and construction debris from and adjacent to the storm drain of South Nolan Creek; and
 - c. Within 45 days after the effective date of this Order, Oakridge Custom Homes shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. through 2.b. 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."

Oakridge Custom Homes shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. through 2.b. 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:

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Oakridge Custom Homes. Oakridge Custom Homes is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Oakridge Custom Homes fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Oakridge Custom Homes's failure to comply is not a violation of this Order. Oakridge Custom Homes shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Oakridge Custom Homes shall notify the Executive Director within seven days after Oakridge Custom Homes becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Oakridge Custom Homes shall be made in writing to the Executive Director. Extensions are not effective until Oakridge Custom Homes receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Oakridge Custom Homes if the Executive Director determines that Oakridge Custom Homes has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

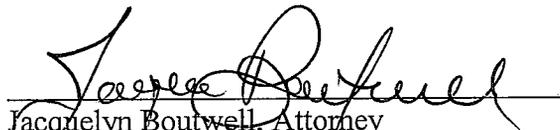
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Oakridge Custom Homes, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 29, 2008.

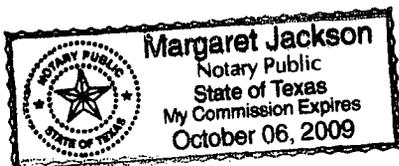
The EDPRP was mailed to Oakridge Custom Homes at its last known address on July 29, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Oakridge Custom Homes received notice of the EDPRP on July 30, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since Oakridge Custom Homes received notice of the EDPRP. Oakridge Custom Homes failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”


Jacquelyn Boutwell, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25 day of August, A.D., 2009.




Notary Signature