

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1752-MLM-E TCEQ ID: RN105628572 CASE NO.: 36788**

**RESPONDENT NAME: Concan Country Club, Inc.**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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 checked="" type="checkbox"/> EDWARDS AQUIFER
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> The Club at Concan, 520 Mountain Valley Drive, Concan, Uvalde County</p> <p><b>TYPE OF OPERATION:</b> Golf course, country club, and residential development</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>                  TCEQ Attorney/SEP Coordinator: None                  TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387                  Respondent: Mr. Kenneth Arthur, President, Concan Country Club, Inc., P.O. Box 257, Concan, Texas 78838                  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 23, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 22, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to obtain approval of an Edwards Aquifer Contributing Zone Plan prior to beginning construction of a regulated activity over the Edwards Aquifer Contributing Zone. Specifically, the investigator observed a golf course, club house, and two single-family residences with associated roads and parking, totaling approximately 200 acres [30 TEX. ADMIN. CODE § 213.23(a)(1)].</p> <p>2) Failure to obtain authorization to discharge storm water associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p>	<p><b>Total Assessed:</b> \$14,000</p> <p><b>Total Deferred:</b> \$2,800  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$482 (remaining \$10,718 due in 23 monthly payments of \$466 each)</p> <p>Edwards Aquifer  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Water Quality  <b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on August 29, 2008, the Respondent submitted an administratively complete application for an Edwards Aquifer Contributing Zone Plan.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease any regulated activity at the Site until such time that the Contributing Zone Plan has been approved by the TCEQ San Antonio Regional Office;</p> <p>b. Within 30 days after the effective date of this Agreed Order, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent and associated fees to comply with the Construction General Permit requirements; and</p> <p>c. 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 Provisions a and b.</p>

Additional ID No(s): 13-08091001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

DATES	Assigned	27-Oct-2008	Screening	6-Nov-2008	EPA Due	
	PCW	13-Nov-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Concan Country Club, Inc.
Reg. Ent. Ref. No.	RN105628572
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36788	No. of Violations	1
Docket No.	2008-1752-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Edwards Aquifer	Enf. Coordinator	Lanae Foard
		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**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$94
Approx. Cost of Compliance	\$2,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 6-Nov-2008

**Docket No.** 2008-1752-MLM-E

**PCW**

**Respondent** Concan Country Club, Inc.

Policy Revision 2 (September 2002)

**Case ID No.** 36788

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN105628572

**Media [Statute]** Water Quality

**Enf. Coordinator** Lanae Foard

### 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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment due to average performer classification.

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

<b>Screening Date</b> 6-Nov-2008	<b>Docket No.</b> 2008-1752-MLM-E	<b>PCW</b>
<b>Respondent</b> Concan Country Club, Inc.		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 36788		<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.</b> RN105628572		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Lanae Foard		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)"/>	
<b>Violation Description</b>	<input type="text" value="Failed to obtain authorization to discharge storm water associated with construction activites, as documented during an investigation conducted on July 23, 2008."/>	
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
OR	<b>Harm</b>	
	Release	Major    Moderate    Minor
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
		<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>		
	<b>Falsification</b>	Major    Moderate    Minor
	<input type="text"/>	<input checked="" type="text" value="X"/> <input type="text"/> <input type="text"/>
		<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>	
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>
		<input type="text" value="\$1,000"/>
<b>Violation Events</b>		
	<b>Number of Violation Events</b> <input type="text" value="4"/>	<input type="text" value="107"/> <b>Number of violation days</b>
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="text" value="X"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
		<b>Violation Base Penalty</b> <input type="text" value="\$4,000"/>
	<input type="text" value="Four monthly events are recommended from the investigation date (July 23, 2008) to the screening date (November 6, 2008)."/>	
<b>Good Faith Efforts to Comply</b>		
	<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>
	<small>Before NOV    NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="X"/> (mark with x)	
<b>Notes</b>	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
	<b>Violation Subtotal</b>	<input type="text" value="\$4,000"/>
<b>Economic Benefit (EB) for this violation</b>		
	<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b> <input type="text" value="\$94"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$4,000"/>
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$4,000"/>	

### Economic Benefit Worksheet

**Respondent** Concan Country Club, Inc.  
**Case ID No.** 36788  
**Reg. Ent. Reference No.** RN105628572  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	23-Jul-2008	30-Jun-2009	0.94	\$94	n/a	\$94
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of developing and implementing a Storm Water Pollution Prevention Plan and submitting a completed Notice of Intent, along with associated application fees. Date required is the investigation date and the final date is the estimated date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000

TOTAL \$94



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	27-Oct-2008	Screening	6-Nov-2008	EPA Due	
	PCW	13-Nov-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Concan Country Club, Inc.
Reg. Ent. Ref. No.	RN105628572
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36788	No. of Violations	1
Docket No.	2008-1752-MLM-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment due to average performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$641  
 Approx. Cost of Compliance: \$15,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$10,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,000
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$2,000
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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.

<b>PAYABLE PENALTY</b>	\$8,000
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Screening Date 6-Nov-2008

Docket No. 2008-1752-MLM-E

PCW

Respondent Concan Country Club, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36788

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105628572

Media [Statute] Edwards Aquifer

Enf. Coordinator Lanae Foard

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to average performer classification.

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

<b>Screening Date</b> 6-Nov-2008	<b>Docket No.</b> 2008-1752-MLM-E	<b>PCW</b>																			
<b>Respondent</b> Concan Country Club, Inc.		<small>Policy Revision 2 (September 2002)</small>																			
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<b>Reg. Ent. Reference No.</b> RN105628572																					
<b>Media [Statute]</b> Edwards Aquifer																					
<b>Enf. Coordinator</b> Lanae Foard																					
<b>Violation Number</b>	1																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 213.23(a)(1)																				
<b>Violation Description</b>	Failed to obtain approval of an Edwards Aquifer Contributing Zone Plan prior to beginning construction of a regulated activity over the Edwards Aquifer Contributing Zone, as documented during an investigation conducted on July 23, 2008. Specifically, the investigator observed a golf course, club house, and two single-family residences with associated roads and parking, totaling approximately 200 acres.																				
	<b>Base Penalty</b>	\$10,000																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th colspan="3">Harm</th> <td></td> </tr> <tr> <td><b>Release</b></td> <th>Major</th> <th>Moderate</th> <th>Minor</th> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;"><b>Percent</b> 0%</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm				<b>Release</b>	Major	Moderate	Minor		Actual				<b>Percent</b> 0%	Potential				
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	Falsification	Major	Moderate	Minor																	
		x			<b>Percent</b> 25%																
<b>Matrix Notes</b>	100% of the rule requirement was not met.																				
	<b>Adjustment</b>	\$7,500																			
		\$2,500																			
<b>Violation Events</b>																					
	<b>Number of Violation Events</b>	4																			
		<b>Number of violation days</b>																			
	107																				
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td style="text-align: center;">x</td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event		<b>Violation Base Penalty</b>					
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	0.0% Reduction	\$0																			
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <th>Before NOV</th> <th>NOV to EDPRP/Settlement Offer</th> </tr> <tr> <td>Extraordinary</td> <td></td> <td></td> </tr> <tr> <td>Ordinary</td> <td></td> <td></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary			N/A	x	(mark with x)								
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary																					
Ordinary																					
N/A	x	(mark with x)																			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																				
	<b>Violation Subtotal</b>	\$10,000																			
<b>Economic Benefit (EB) for this violation</b>																					
	<b>Estimated EB Amount</b>	\$641																			
<b>Statutory Limit Test</b>																					
	<b>Violation Final Penalty Total</b>	\$10,000																			
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>																				
		\$10,000																			

## Economic Benefit Worksheet

**Respondent** Concan Country Club, Inc.  
**Case ID No.** 36788  
**Reg. Ent. Reference No.** RN105628572  
**Media** Edwards Aquifer  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$15,000	23-Jul-2008	31-May-2009	0.85	\$641	\$641
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Cost reflects the amount to prepare and submit a Edwards Aquifer Contributing Zone Plan ("CZP"). The date required is the investigation date and the final date is the expected date of compliance.

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$15,000

TOTAL \$641

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603411315 CONCAN COUNTRY CLUB INC Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN105628572 THE CLUB AT CONCAN Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT  
ID Number(s): EDWARDS AQUIFER REGISTRATION 13-08091001  
Location: 520 Mountain Valley Drive, Concan, Uvalde County, Texas

TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: December 03, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 03, 2003 to December 03, 2008

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

Name: Lanae Foard Phone: 239 - 2554

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## 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 10/22/2008 (703932)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CONCAN COUNTRY CLUB, INC.  
RN105628572

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1752-MLM-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Concan Country Club, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns a golf course, country club, and residential development at 520 Mountain Valley Drive in Concan, Uvalde County, Texas (the "Site").
2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 27, 2008.
5. 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.
6. An administrative penalty in the amount of Fourteen Thousand Dollars (\$14,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Eighty-Two Dollars (\$482) of the administrative penalty and

Two Thousand Eight Hundred Dollars (\$2,800) 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 Ten Thousand Seven Hundred Eighteen Dollars (\$10,718) of the administrative penalty shall be payable in 23 monthly payments of Four Hundred Sixty-Six Dollars (\$466) 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.

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 the Respondent 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 on August 29, 2008, the Respondent submitted an administratively complete application for an Edwards Aquifer Contributing Zone Plan.
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 the Respondent 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 of the Site, the Respondent is alleged to have:

1. Failed to obtain approval of an Edwards Aquifer Contributing Zone Plan prior to beginning construction of a regulated activity over the Edwards Aquifer Contributing Zone, in violation of 30 TEX. ADMIN. CODE § 213.23(a)(1), as documented during an investigation conducted on July 23, 2008. Specifically, the investigator observed a golf course, club house, and two single-family residences with associated roads and parking, totaling approximately 200 acres.

2. 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 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on July 23, 2008.

### 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 6 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: Concan Country Club, Inc., Docket No. 2008-1752-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease any regulated activity at the Site until such time that the Contributing Zone Plan has been approved by the TCEQ San Antonio Regional Office;
  - b. Within 30 days after the effective date of this Agreed Order, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent and associated fees to comply with the Construction General Permit requirements, in accordance with 30 TEX. ADMIN CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c) to:

Storm Water and Pretreatment Team, MC 148  
Water Quality Division  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. 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 Nos. 2.a and 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 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.
6. 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

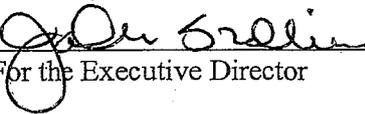
Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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 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

  
\_\_\_\_\_  
For the Executive Director

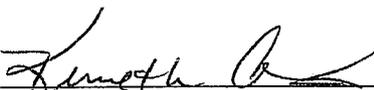
\_\_\_\_\_  
Date 3/24/2009

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

\_\_\_\_\_  
Date 2-3-09

Kenneth Arthur  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Concan Country Club, Inc.

\_\_\_\_\_  
Title President

**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.