

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1676-WQ-E **TCEQ ID:** RN104620216 **CASE NO.:** 36699
RESPONDENT NAME: Pecan Grove Homes, LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Pecan Grove Mobile Home Park, 125 Pecan Grove, Schertz, Guadalupe County</p> <p>TYPE OF OPERATION: Wastewater collection system, which includes the Nu Pecan Grove and Oak Bloom Lane lift stations</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on March 21, 2008, alleging the Respondent has a failing sewage collection system that is discharging raw sewage into Cibolo Creek. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Gary Williams, Member/Manager, Pecan Grove Homes, LP, P.O. Box 190138, Dallas, Texas 75219 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: March 21, 2008</p> <p>Date of Investigations Relating to this Case: March 24, 2008 and August 28, 2008</p> <p>Date of NOV/NOE Relating to this Case: September 22, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation and a record review.</p> <p>WATER</p> <p>1) Failure to prevent the unauthorized discharge of raw sewage from the Oak Bloom Lane and Nu Pecan Grove lift stations on March 24, 2008. Specifically, raw sewage from the lift stations discharged into Cibolo Creek. Samples taken downstream from the points of discharge contained elevated concentrations of E. coli (2,382 most probable number ("MPN")/10 milliliters ("mL")) compared to upstream samples (20 MPN/10 mL) [TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to have a licensed operator supervise the wastewater collection system operation and maintenance activities [30 TEX. ADMIN. CODE § 30.350(n)].</p>	<p>Total Assessed: \$6,050</p> <p>Total Deferred: \$1,210 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,840</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On March 27, 2008, the Respondent cleaned and properly disposed of raw sewage from the receiving stream; and</p> <p>b. By June 17, 2008, the Respondent:</p> <p>i. Instituted daily hour meter reads, installed a repair clamp on a discharge line, inspected pump bases and rails in the tank, and removed and cleaned the discharge lines and check valve covers to ensure proper flow and pressure at the Oak Bloom Lane lift station;</p> <p>ii. Replaced the alternator and two run meters at the Nu Pecan lift station; and</p> <p>iii. Installed pressure gauges on the force mains at both lift stations.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, employ a licensed operator; and</p> <p>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.</p>

Additional ID No(s): N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	29-Sep-2008			
	PCW	21-Oct-2008	Screening	21-Oct-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Pecan Grove Homes, LP
Reg. Ent. Ref. No.	RN104620216
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36699	No. of Violations	2
Docket No.	2008-1676-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lauren Smitherman
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 1
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7
		\$300

Notes	Enhancement due to one NOV with same or similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$202	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$12,211		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,050
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes	
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Final Penalty Amount	\$6,050
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,050
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,210
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY		\$4,840
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Screening Date 21-Oct-2008

Docket No. 2008-1676-WQ-E

PCW

Respondent Pecan Grove Homes, LP

Policy Revision 2 (September 2002)

Case ID No. 36699

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN104620216

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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%
<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) 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

Enhancement due to one NOV with same or similar violations.

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

Screening Date 21-Oct-2008 **Docket No.** 2008-1676-WQ-E **PCW**
Respondent Pecan Grove Homes, LP *Policy Revision 2 (September 2002)*
Case ID No. 36699 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN104620216
Media [Statute] Water Quality
Enf. Coordinator Lauren Smitherman

Violation Number 1

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

Violation Description
 Failed to prevent the unauthorized discharge of raw sewage from the Oak Bloom Lane and Nu Pecan Grove lift stations on March 24, 2008, as documented during a record review on August 28, 2008. Specifically, raw sewage from the lift stations discharged into Cibolo Creek. Samples taken downstream from the points of discharge contained elevated concentrations of E. coli (2,382 most probable number ("MPN")/10 milliliters ("mL")) compared to upstream samples (20 MPN/10 mL).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual		x	
Potential			10%	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 85 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on the date the unauthorized discharge occurred (March 24, 2008) to the date of compliance (June 17, 2008).

Good Faith Efforts to Comply

25.0% Reduction \$250

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

Notes The Respondent came into compliance on June 17, 2008.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$196

Violation Final Penalty Total \$800

This violation Final Assessed Penalty (adjusted for limits) \$800

Economic Benefit Worksheet

Respondent Pecan Grove Homes, LP

Case ID No. 36699

Reg. Ent. Reference No. RN104620216

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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$12,000	24-Mar-2008	17-Jun-2008	0.23	\$9	\$186	\$196
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	\$100	24-Mar-2008	27-Mar-2008	0.01	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Delayed cost to clean and properly dispose of raw sewage in the receiving stream (\$100). Additional costs include instituting daily hour meter reads, installing a repair clamp on a discharge line, inspecting pump bases and rails in the tank, and removing and cleaning the discharge lines and checking valve covers to ensure proper flow and pressure at the Oak Bloom lift station. At the Nu Pecan lift station, costs include replacing the alternator and two run meters and installing pressure gauges on the force mains at both lift stations. Date Required is the initial investigation date. Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$12,100

TOTAL

\$196

Screening Date 21-Oct-2008	Docket No. 2008-1676-WQ-E	PCW		
Respondent Pecan Grove Homes, LP		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36699		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN104620216				
Media [Statute] Water Quality				
Enf. Coordinator Lauren Smitherman				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 30.350(n)"/>			
Violation Description	<input type="text" value="Failed to have a licensed operator supervise the wastewater collection system operation and maintenance activities."/>			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="25%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Failure to have a licensed operator at the Facility could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors."/>			
			Adjustment	<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
Violation Events				
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="54"/>	Number of violation days
	<i>mark only one with an x</i>	daily	<input type="text"/>	
		monthly	<input checked="" type="checkbox"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input type="text"/>	
				Violation Base Penalty <input type="text" value="\$5,000"/>
	<input type="text" value="Two monthly events are recommended based on the record review date (August 28, 2008) to screening (October 21, 2008)."/>			
Good Faith Efforts to Comply				
		0.0%	Reduction	<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	<input checked="" type="checkbox"/>	(mark with x)	
	Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
				Violation Subtotal <input type="text" value="\$5,000"/>
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$7"/>	Statutory Limit Test	
			Violation Final Penalty Total	<input type="text" value="\$5,250"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$5,250"/>

Economic Benefit Worksheet

Respondent: Pecan Grove Homes, LP
Case ID No.: 36699
Reg. Ent. Reference No.: RN104620216
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				0.00	\$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				0.00	\$0	n/a	\$0
Other (as needed)	\$111	24-Mar-2008	31-May-2009	1.19	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost includes the exam costs for a Class "D" license. Date Required is the initial investigation date. 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

\$111

TOTAL

\$7

Compliance History Report

Customer/Respondent/Owner-Operator: CN603400847 PECAN GROVE HOMES, LP Classification: AVERAGE Rating: 1.00
Regulated Entity: RN104620216 PECAN GROVE MOBILE HOME PARK Classification: AVERAGE Site Rating: 1.00
ID Number(s):
Location: 125 PECAN GROVE, SCHERTZ, GUADALUPE CO, TX
NU PECAN LIFT STATION AND OAK BLOOM LIFT STATION
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: December 04, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 21, 2003 to October 21, 2008

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

Name: Lauren Smitherman Phone: 512-239-5223

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? Yes
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 12/13/2007 (611604)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 07/29/2005 (402364)
Self NO Classification: Minor
Citation: 30 TAC Chapter 30, SubChapter J 30.331(b)
Description: Failure to have an individual with proper certification to perform the collection system activities.
Self NO Classification: Minor
Citation: 30 TAC Chapter 317 317.3(a)
Description: Failure to secure the lift stations by intruder-resistant fencing.
- 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
PECAN GROVE HOMES, LP
RN104620216

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1676-WQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Pecan Grove Homes, LP ("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 wastewater collection system, which includes the Nu Pecan Grove and Oak Bloom Lane lift stations, at 125 Pecan Grove in Schertz, Guadalupe County, Texas (the "Facility").
2. The Respondent has discharged sewage into or adjacent to 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 September 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 Six Thousand Fifty Dollars (\$6,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Eight Hundred Forty Dollars (\$4,840) of the administrative penalty and One Thousand Two Hundred Ten Dollars (\$1,210) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. On March 27, 2008, the Respondent cleaned and properly disposed of raw sewage from the receiving stream; and
 - b. By June 17, 2008, the Respondent:
 - i. Instituted daily hour meter reads, installed a repair clamp on a discharge line, inspected pump bases and rails in the tank, and removed and cleaned the discharge lines and check valve covers to ensure proper flow and pressure at the Oak Bloom lift station;
 - ii. Replaced the alternator and two run meters at the Nu Pecan lift station; and
 - iii. Installed pressure gauges on the force mains at both lift stations.
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 Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of raw sewage from the Oak Bloom Lane and Nu Pecan Grove lift stations on March 24, 2008, in violation of TEX. WATER CODE § 26.121(a), as documented during a record review conducted on August 28, 2008. Specifically, raw sewage from the lift stations discharged into Cibolo Creek. Samples taken downstream from the points of discharge contained elevated concentrations of E. coli (2,382 most probable number ("MPN")/10 milliliters ("mL")) compared to upstream samples (20 MPN/10 mL).
2. Failed to have a licensed operator supervise the wastewater collection system operation and maintenance activities, in violation of 30 TEX. ADMIN. CODE § 30.350(n), as documented during a record review conducted on August 28, 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: Pecan Grove Homes, LP, Docket No. 2008-1676-WQ-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, employ a licensed operator, in accordance with the requirements of 30 TEX. ADMIN. CODE § 30.350(n); and
 - 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 No. 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
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 Facility 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

4/28/2009

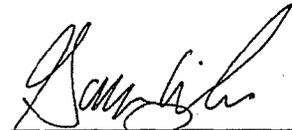
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

2/5/2009

Date

GARY WILLIAMS

Name (Printed or typed)
Authorized Representative of
Pecan Grove Homes, LP

MEMBER / MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.