

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0884-MWD-E **TCEQ ID:** RN101607885 **CASE NO.:** 35952

RESPONDENT NAME: Lochinvar Golf Club

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: Lochinvar Golf Club, located approximately 2,100 feet east-southeast of the intersection of Hardy Road and Farrell Road and 2.3 miles east-northeast of the intersection of Interstate Highway 45 and Kuykendahl Road, Harris County</p> <p>TYPE OF OPERATION: Private golf course with a wastewater treatment plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 6, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Pete Van Horn, President, Lochinvar Golf Club, 2000 Farrell Road, Houston, Texas 77073 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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 8, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 6, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12141001, which expired on December 1, 2007, and is continuing to discharge wastewater from the Facility without authorization [TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2)].</p>	<p>Total Assessed: \$6,600</p> <p>Total Deferred: \$1,320 <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: \$5,280</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 on March 28, 2008, the Respondent submitted an application for authorization to discharge wastewater under a TPDES permit.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. 12141001;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0012141001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 29, 2008

DATES	Assigned	12-May-2008	Screening	27-May-2008	EPA Due	
	PCW	27-May-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Lochinvar Golf Club		
Reg. Ent. Ref. No.	RN101607885		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	35952	No. of Violations	1	
Docket No.	2008-0884-MWD-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
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7	\$600
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Notes: The Respondent was issued five Notices of Violations with unrelated violations.

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

Good Faith Effort to Comply	0.0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Total EB Amounts	\$290	Subtotal 6	\$0
Approx. Cost of Compliance	\$5,000	*Capped at the Total EB \$ Amount	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,600
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,320
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,280
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Screening Date 27-May-2008

Docket No. 2008-0884-MWD-E

PCW

Respondent Lochinvar Golf Club

Policy Revision 2 (September 2002)

Case ID No. 35952

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN101607885

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)	0	0%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent was issued five Notices of Violations with unrelated violations.

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

Screening Date 27-May-2008	Docket No. 2008-0884-MWD-E	PCW
Respondent Lochinvar Golf Club	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35952	<i>PCW Revision April 29, 2008</i>	
Reg. Ent. Reference No. RN101607885		
Media [Statute] Water Quality		
Enf. Coordinator Heather Brister		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	Tex. Water Code § 26.121(a) and 30 Tex. Admin. Code §§ 305.65 and 305.125(2)	
Violation Description	Failed to maintain authorization for the discharge of wastewater. Specifically, the Respondent did not renew Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 12141001, which expired on December 1, 2007, and is continuing to discharge wastewater from the Facility without authorization.	
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 type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		x	<input type="text"/>	<input type="text"/>	
					Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.				
Adjustment					<input type="text" value="\$9,000"/>

Violation Events

Number of Violation Events <input type="text" value="6"/>	<input type="text" value="178"/>	Number of violation days												
<i>mark only one with an x</i>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="width: 40px; text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$6,000"/>
daily	<input type="text"/>													
monthly	x													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
Six monthly events are recommended from the date the TPDES permit expired (December 1, 2007) to the date of screening (May 27, 2008).														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$290"/>	Violation Final Penalty Total <input type="text" value="\$6,600"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,600"/>	

Economic Benefit Worksheet

Respondent Lochinvar Golf Club
Case ID No. 35952
Reg. Ent. Reference No. RN101607885
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
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	\$5,000	1-Dec-2007	27-Jan-2009	1.16	\$290	n/a	\$290
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit a new permit application to obtain authorization to discharge wastewater. Date Required is the date the previous permit expired. 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

\$5,000

TOTAL

\$290

Compliance History

Customer/Respondent/Owner-Operator:	CN600627970	Lochinvar Golf Club	Classification: AVERAGE	Rating: 0.22
Regulated Entity:	RN101607885	LOCHINVAR GOLF CLUB	Classification: AVERAGE	Site Rating: 0.22

ID Number(s):	WASTEWATER	PERMIT	WQ0014891001
	WASTEWATER	EPA ID	TX0131555

Location:	Approximately 2,100 feet east-southeast of the intersection of Hardy Road and Farrell Road and 2.3 miles east-northeast of the intersection of Interstate Highway 45 and Kuykendahl Road in Harris County, Texas.	Rating Date: 9/1/2007 Repeat Violator: NO
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TCEQ Region:	REGION 12 - HOUSTON
Date Compliance History Prepared:	May 25, 2008
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	May 25, 2003 to May 25, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History	
Name:	Heather Brister Phone: 254/761-3034

Site Compliance History Components

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

Components (Multimedia) for the Site :

- | | |
|--|-----|
| A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. | N/A |
| B. Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. Chronic excessive emissions events. | N/A |
| D. The approval dates of investigations. (CCEDS Inv. Track. No.) | |
- | | | |
|----|------------|----------|
| 1 | 05/30/2003 | (315322) |
| 2 | 06/23/2003 | (315323) |
| 3 | 07/18/2003 | (315324) |
| 4 | 09/09/2003 | (315325) |
| 5 | 09/22/2003 | (315326) |
| 6 | 10/24/2003 | (315327) |
| 7 | 11/24/2003 | (315328) |
| 8 | 12/17/2003 | (256481) |
| 9 | 12/29/2003 | (315329) |
| 10 | 01/22/2004 | (315330) |
| 11 | 02/23/2004 | (315319) |
| 12 | 03/23/2004 | (315320) |
| 13 | 04/26/2004 | (315321) |
| 14 | 05/27/2004 | (360402) |
| 15 | 06/28/2004 | (360403) |
| 16 | 09/07/2004 | (288119) |
| 17 | 09/16/2004 | (360404) |
| 18 | 09/16/2004 | (360405) |
| 19 | 10/28/2004 | (386542) |
| 20 | 11/18/2004 | (386543) |
| 21 | 12/23/2004 | (386544) |
| 22 | 01/26/2005 | (386545) |
| 23 | 02/21/2005 | (386540) |
| 24 | 03/28/2005 | (386541) |
| 25 | 04/26/2005 | (424380) |
| 26 | 05/26/2005 | (424381) |
| 27 | 06/23/2005 | (424382) |

28 07/28/2005 (445155)
 29 07/28/2005 (424383)
 30 08/22/2005 (445156)
 31 10/24/2005 (476271)
 32 10/27/2005 (476272)
 33 12/15/2005 (476273)
 34 12/27/2005 (476274)
 35 02/06/2006 (476275)
 36 03/02/2006 (476269)
 37 03/27/2006 (476270)
 38 04/28/2006 (503371)
 39 06/26/2006 (503372)
 40 06/30/2006 (503373)
 41 07/31/2006 (525746)
 42 08/22/2006 (486318)
 43 08/28/2006 (525747)
 44 10/09/2006 (585879)
 45 11/02/2006 (585880)
 46 11/28/2006 (585881)
 47 01/10/2007 (585882)
 48 02/01/2007 (585883)
 49 03/09/2007 (585875)
 50 04/13/2007 (585876)
 51 05/02/2007 (585877)
 52 06/08/2007 (585878)
 53 07/23/2007 (623938)
 54 07/23/2007 (623939)
 55 09/26/2007 (623940)
 56 05/06/2008 (654509)

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

Date: **12/16/2003** (256481)
 Self Report? NO Classification: Moderate
 Rqmt Prov: PERMIT Permit No.12141-001 Page 9, No. 1
 Description: Failure to maintain the structural integrity of the wastewater treatment plant.

Date: **03/31/2006** (503371)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **08/22/2006** (486318)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to report the number of permit excursions on the Discharge Monitoring Report (DMR) for the month of March 2006.

Date: **02/28/2007** (585876)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2007** (585878)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

- 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
LOCHINVAR GOLF CLUB
RN101607885

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0884-MWD-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 Lochinvar Golf Club ("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 and operates a private golf course with a wastewater treatment plant located approximately 2,100 feet east-southeast of the intersection of Hardy Road and Farrell Road and 2.3 miles east-northeast of the intersection of Interstate Highway 45 and Kuykendahl Road in Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 May 11, 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 Six Hundred Dollars (\$6,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Two Hundred Eighty Dollars (\$5,280) of the administrative penalty and One Thousand Three Hundred Twenty Dollars (\$1,320) 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 on March 28, 2008, the Respondent submitted an application for authorization to discharge wastewater under a Texas Pollutant Discharge Elimination System ("TPDES") permit.
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 and operator of the Facility, the Respondent is alleged to have failed to maintain authorization for the discharge of wastewater, in violation of TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE §§ 305.65 and 305.125(2), as documented during an investigation conducted on February 8, 2008. Specifically, the Respondent did not renew TPDES Permit No. 12141001, which expired on December 1, 2007, and is continuing to discharge wastewater from the Facility without authorization.

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: Lochinvar Golf Club, Docket No. 2008-0884-MWD-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, until such time that authorization to operate is obtained, or until 180 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. 12141001;
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and
 - c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sroder

For the Executive Director

Date 6/23/2009

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.

Pete VanHorn

Signature

May 6, 2009
Date

PETE VANHORN

Name (Printed or typed)
Authorized Representative of
Lochinvar Golf Club

President

Title

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

