

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0411-PWS-E **TCEQ ID:** RN101269926 **CASE NO.:** 39323  
**RESPONDENT NAME:** Live Oak Resort, 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 type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Live Oak Resort, 9751 Lone Star Road, Washington County</p> <p><b>TYPE OF OPERATION:</b> Recreational resort with a public water system</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 October 18, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4012; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Larry Hilderbrand, Director, Live Oak Resort, Inc., 9751 Lone Star Road, Washington, Texas 77880  <b>Respondent's Attorney:</b> 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> January 15, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 16, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failed to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities [30 TEX. ADMIN. CODE § 290.39(j)].</p> <p>2) Failed to equip the air injection line on the pressure tank with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank [30 TEX. ADMIN. CODE § 290.43(d)(3)].</p> <p>3) Failed to provide a ground storage capacity of 35 gallons per connection [30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(ii) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p> <p>4) Failed to provide two or more service pumps which have a total capacity of 1.0 gallon per minute ("gpm") per connection [30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(iii) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</p>	<p><b>Total Assessed:</b> \$1,638</p> <p><b>Total Deferred:</b> \$327  <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> \$112 (remaining \$1,199 due in 11 monthly payments of \$109 each)</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site 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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit written notification to the Executive Director of the removal of the two 110 gallon pressure tanks and the addition of the new 900 gallon pressure tank at the Facility; and</p> <p>ii. Equip the air injection lines on the two 900 gallon pressure tanks with filters or other devices to prevent compressor lubricants and other contaminants from entering the pressure tanks.</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 a copy of the written notification to the Executive Director, to demonstrate compliance with Ordering Provision a.</p> <p>c. Within 180 days after the effective date of this Agreed Order:</p> <p>i. Provide a ground storage capacity of 35 gallons per connection; and</p> <p>ii. Provide two or more service pumps which have a total capacity of 1.0 gpm per connection.</p> <p>d. Within 195 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 c.</p>

Additional ID No(s): PWS ID No. 2390050



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-Feb-2010	Screening	4-Mar-2010	EPA Due	
	PCW	15-Mar-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Live Oak Resort, Inc.		
Reg. Ent. Ref. No.	RN101269926		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39323	No. of Violations	4
Docket No.	2010-0411-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rebecca Clausewitz
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

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

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

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

Notes: The enhancement is due to three prior Notices of Violation (NOVs) containing violations that are dissimilar to the violations in the current enforcement action and one prior agreed final enforcement order containing a denial of liability.

**Culpability** Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

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

**Economic Benefit** Subtotal 6

Total EB Amounts	\$989
Approx. Cost of Compliance	\$11,807

0.0% Enhancement\*  
\*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** Adjustment

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**

Screening Date 4-Mar-2010

Docket No. 2010-0411-PWS-E

PCW

Respondent Live Oak Resort, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39323

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101269926

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

### 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	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The enhancement is due to three prior Notices of Violation (NOVs) containing violations that are dissimilar to the violations in the current enforcement action and one prior agreed final enforcement order containing a denial of liability.

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

Screening Date 4-Mar-2010

Docket No. 2010-0411-PWS-E

PCW

Respondent Live Oak Resort, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39323

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101289926

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.39(j)

Violation Description

Failed to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities. Specifically, on the date of the investigation, it was noted that two 110 gallon pressure tanks had been removed and a new 900 gallon pressure tank had been added to pressure plane no. 2, yet no notice had been provided to the Commission prior to making this change.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$600

\$100

Violation Events

Number of Violation Events 1

48 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$126

This violation Final Assessed Penalty (adjusted for limits) \$126

# Economic Benefit Worksheet

**Respondent** Live Oak Resort, Inc.  
**Case ID No.** 39323  
**Reg. Ent. Reference No.** RN101269926  
**Media** Public Water Supply  
**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
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Item Description No commas or \$

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50	15-Jan-2010	31-Oct-2010	0.79	\$0	\$3	\$3
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide notice of the change in the pressure tank to the Commission, calculated from the date of the investigation to the estimated date of compliance.

**Avoided Costs**

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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$50

TOTAL

\$3

Screening Date 4-Mar-2010

Docket No. 2010-0411-PWS-E

PCW

Respondent Live Oak Resort, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39323

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101269926

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.43(d)(3)

Violation Description

Failed to equip the air injection line on the pressure tank with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank. Specifically, on the date of the investigation, it was noted that the Facility's two 900 gallon pressure tanks do not have a filter installed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to have a filter installed on the pressure tank's line could result in customers of the Facility being exposed to significant amounts of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2

48 Number of violation days

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

Violation Base Penalty \$200

Two quarterly events are recommended (one event per pressure tank), calculated from the date of the investigation, January 15, 2010, to the date of case screening, March 4, 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$252

This violation Final Assessed Penalty (adjusted for limits) \$252

# Economic Benefit Worksheet

**Respondent** Live Oak Resort, Inc.  
**Case ID No.** 39323  
**Reg. Ent. Reference No.** RN101269926  
**Media** Public Water Supply  
**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
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No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	15-Jan-2010	31-Oct-2010	0.79	\$1	\$11	\$11
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to purchase and install filters on the air injection lines of the Facility's two 900 gallon pressure tanks, calculated from the date of the investigation to 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
Inspect/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

\$200

TOTAL

\$11

Screening Date 4-Mar-2010

Docket No. 2010-0411-PWS-E

PCW

Respondent Live Oak Resort, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39323

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101269926

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 290.45(c)(1)(B)(ii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide a ground storage capacity of 36 gallons per connection. Specifically, with 127 service connections, the Respondent should provide a minimum total ground storage capacity of 4,445 gallons. On the date of the investigation, there was no ground storage provided at the Facility, thus there is a 100% deficiency in ground storage capacity.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Without sufficient ground storage capacity, customers of the Facility could experience water shortages or outages, exposing the customers to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 48

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

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the date of the investigation, January 15, 2010, to the date of case screening, March 4, 2010.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
	Before NOV	NOV to EDRP/ Settlement Offer	
Extraordinary			
Ordinary			
N/A	x	(mark with x)	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$806

Violation Final Penalty Total \$630

This violation Final Assessed Penalty (adjusted for limits) \$630

## Economic Benefit Worksheet

**Respondent** Live Oak Resort, Inc.  
**Case ID No.** 39323  
**Reg. Ent. Reference No.** RN101269926  
**Media** Public Water Supply  
**Violation No.** 3

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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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	\$9,557	15-Jan-2010	31-Mar-2011	1.21	\$38	\$768	\$806
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide sufficient ground storage capacity at the Facility, calculated from the date of the investigation to 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

\$9,557

TOTAL

\$806

Screening Date 4-Mar-2010

Docket No. 2010-0411-PWS-E

PCW

Respondent Live Oak Resort, Inc.

Policy Revision 2 (September 2002)

Case ID No. 39323

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101269926

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 290.45(c)(1)(B)(iii) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to provide two or more service pumps which have a total capacity of 1.0 gallon per minute ("gpm") per connection. Specifically, with 127 service connections, the Respondent should provide a minimum total service pump capacity of 127 gpm. On the date of the investigation, there were no service pumps provided at the Facility, thus there is a 100% deficiency in service pump capacity.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Without sufficient service pump capacity, customers of the Facility could experience water shortages or outages, exposing the customers to significant amounts of contaminants which would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 48

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended, calculated from the date of the investigation, January 15, 2010, to the date of case screening, March 4, 2010.

Good Faith Efforts to Comply

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

\$0

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$169

Violation Final Penalty Total \$630

This violation Final Assessed Penalty (adjusted for limits) \$630

## Economic Benefit Worksheet

**Respondent** Live Oak Resort, Inc.  
**Case ID No.** 39323  
**Reg. Ent. Reference No.** RN101269926  
**Media** Public Water Supply  
**Violation No.** 4

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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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	\$2,000	15-Jan-2010	31-Mar-2011	1.21	\$8	\$161	\$169
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide sufficient service pump capacity at the Facility, calculated from the date of the investigation to 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

\$169

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600699789 Live Oak Resort, Inc. Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN101269926 LIVE OAK RESORT Classification: AVERAGE Site Rating: 1.50  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2390050  
Location: 9751 Lone Star Road, Washington County, Texas  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: March 15, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 15, 2005 to March 15, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/28/2008

ADMINORDER 2007-0644-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failure to obtain a sanitary control easement that covers the land within 150 feet of the well or an exception to the easement requirement that is approved by the Commission for well 1.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)

Description: Failure to monitor the chlorine residual at representative locations in the distribution system at least once every seven days.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)

Description: Failure to provide an intruder-resistant fence around wells 1 and 2.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)

Description: Failure to compile a thorough plant operations manual and keep it up-to-date for operator review and reference.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.48(n)(3)

Description: Failure to provide well completion data for Wells 1 and 2.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)

Description: Failure to conduct an annual inspection of the two 110 gallon pressure tanks.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
Description: Failure to provide a map of the distribution system to help locate valves and mains in the event of an emergency.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)  
Description: Failure to provide a raw water sampling tap prior to treatment for for well 1 & 2.

Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
Description: Failure to properly seal the wellhead on well 1.

Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)  
Description: Failure to design, maintain, and operate the water system to provide a minimum pressure of 35 psi at flow rates of at least 1.5 gpm per connection throughout the distribution system under normal operating conditions.

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	08/30/2006	(509767)
2	10/11/2006	(515139)
3	02/15/2007	(538218)
4	04/10/2007	(555052)
5	04/03/2009	(740196)
6	11/25/2009	(721588)
7	02/12/2010	(787770)

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

Date: 09/11/2006 (509767) CN600699789  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description: Failure to obtain a sanitary control easement that covers the land within 150 feet of the well or an exception to the easement requirement that is approved by the Commission for well 1.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(5)(A)  
Description: Failure to monitor the chlorine residual at representative locations in the distribution system at least once every seven days.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
Description: Failure to provide an intruder-resistant fence around wells 1 and 2.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(N)  
Description: Failure to provide a meter for well No. 2.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(i)  
Description: Failure to compile a thorough plant operations manual and keep it up-to-date for operator review and reference.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)  
Description: Failure to provide well completion data for Wells 1 and 2.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
Description: Failure to conduct an annual inspection of the two 110 gallon pressure tanks.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
 Description: Failure to provide a map of the distribution system to help locate valves and mains in the event of an emergency.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)  
 Description: Failure to provide a raw water sampling tap prior to treatment for for well 1 & 2.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(M)  
 Description: Failure to provide a raw water sampling tap for well No. 2.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(2)  
 Description: Failure to provide a pressure release device for the pressure tank.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure to properly seal the wellhead on well 1.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)  
 Description: Failure to design, maintain, and operate the water system to provide a minimum pressure of 35 psi at flow rates of at least 1.5 gpm per connection throughout the distribution system under normal operating conditions.

Date: 03/04/2009 (736393)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 111, SubChapter B 111.201  
 5C THSC Chapter 382 382.085(b)  
 Description: Failure to comply with the general prohibition on outdoor burning within the State of Texas, as required by 30 TAC 111.201, by not meeting an exception as provided in 30 TAC 111.205-111.215.

Date: 11/24/2009 (721588) CN600699789  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
 Description: Failure to obtain a sanitary control easement that covers the land within 150 feet of the well or an exception to the easement requirement that is approved by the Commission for well 1.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)  
 Description: Failure to maintain an up-to-date chemical and microbiological monitoring plan.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)  
 Description: Failure to provide an intruder-resistant fence around wells 1 and 2.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
 Description: Failure to compile a thorough plant operations manual and keep it up-to-date for operator review and reference.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(3)  
 Description: Failure to provide well completion data for Wells 1 and 2.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to conduct an annual inspection of the two 110 gallon pressure tanks.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
 Description: Failure to provide a map of the distribution system to help locate valves and mains in the event of an emergency.

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  
LIVE OAK RESORT, INC.  
RN101269926**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0411-PWS-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Live Oak Resort, Inc. ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a recreational resort with a public water system at 9751 Lone Star Road in Washington County, Texas (the "Facility") that has approximately 127 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 21, 2010.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of One Thousand Six Hundred Thirty-Eight Dollars (\$1,638) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Twelve Dollars (\$112) of the administrative penalty and Three Hundred Twenty-Seven Dollars (\$327) 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.

The remaining amount of One Thousand One Hundred Ninety-Nine Dollars (\$1,199) of the administrative penalty shall be payable in eleven (11) monthly payments of One Hundred Nine

Dollars (\$109) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director 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.
9. 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.
10. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to notify the Executive Director prior to making any significant change or addition to the Facility's production, treatment, storage, pressure maintenance, or distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.39(j), as documented during an investigation conducted on January 15, 2010.
2. Failed to equip the air injection line on the pressure tank with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank, in violation of 30 TEX. ADMIN. CODE § 290.43(d)(3), as documented during an investigation conducted on January 15, 2010.
3. Failed to provide a ground storage capacity of 35 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on January 15, 2010.

4. Failed to provide two or more service pumps which have a total capacity of 1.0 gallon per minute ("gpm") per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(iii) and TEX. HEALTH & SAFETY CODE § 341.0315(c), as documented during an investigation conducted on January 15, 2010.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Live Oak Resort, Inc., Docket No. 2010-0411-PWS-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Submit written notification to the Executive Director of the removal of the two 110 gallon pressure tanks and the addition of the new 900 gallon pressure tank at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.39. The written notification shall be submitted to:

Utilities Technical Review Team  
Water Supply Division, MC 153  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
    - ii. Equip the air injection lines on the two 900 gallon pressure tanks with filters or other devices to prevent compressor lubricants and other contaminants from entering the pressure tanks, in accordance with 30 TEX. ADMIN. CODE § 290.43.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d below, and include detailed supporting

documentation, including photographs, receipts, and a copy of the written notification to the Executive Director, to demonstrate compliance with Ordering Provision No. 2.a.

- c. Within 180 days after the effective date of this Agreed Order:
  - i. Provide a ground storage capacity of 35 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
  - ii. Provide two or more service pumps which have a total capacity of 1.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45.
- d. Within 195 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.c. 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 fines and imprisonment for knowing violations.

The certification shall be submitted to:

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

with a copy to:

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

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be

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

5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Szolter  
For the Executive Director

10/11/2010  
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.

Larry Hildebrand  
Signature

June 23, 2010  
Date

Larry H. Hildebrand  
Name (Printed or typed)  
Authorized Representative of  
Live Oak Resort, Inc.

Director  
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.