

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0678-PWS-E **TCEQ ID:** RN101252112 **CASE NO.:** 39583  
**RESPONDENT NAME:** Willburr and Co., Inc.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> Thunderbird Resort, 200 Greenwood Hills Trail, Burnet County</p> <p><b>TYPE OF OPERATION:</b> Recreational resort with a public water supply</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 September 6, 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. John C. Williams, President, Willburr and Co., Inc., 200 Greenwood Hills Trail, Burnet, Texas 78611  <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 type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> February 11, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 11, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a records review.</p> <p><b>WATER</b></p> <p>Failure to timely submit the surface water monthly operating reports ("SWMORs") to the Commission by the tenth day of each month following the end of the reporting period [30 TEX. ADMIN. CODE §§ 290.110(e)(5) and 290.111(h)(11)].</p>	<p><b>Total Assessed:</b> \$1,050</p> <p><b>Total Deferred:</b> \$0  <input 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> \$105 (remaining \$945 due in 9 monthly payments of \$105 each)</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input 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>Findings Orders Justification:</b></p> <p>The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that as of May 10, 2010, the Respondent submitted all delinquent SWMORs to the Commission.</p>

Additional ID No(s): PWS ID No. 0270058



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	29-Mar-2010	<b>Screening</b>	21-Apr-2010	<b>EPA Due</b>	28-Feb-2008
	<b>PCW</b>	18-Jun-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Willburr and Co., Inc.
<b>Reg. Ent. Ref. No.</b>	RN101252112
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	39583	<b>Order Type</b>	Findings
<b>Docket No.</b>	2010-0678-PWS-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Rebecca Clausewitz
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$50	<b>Maximum</b>
			\$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**  Enhancement **Subtotals 2, 3, & 7**

**Notes**

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

**Notes**

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

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

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

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

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

Reduces or enhances the Final Subtotal by the Indicated percentage.

**Notes**

**Final Penalty Amount**

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

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 21-Apr-2010

Docket No. 2010-0678-PWS-E

PCW

Respondent Willburr and Co., Inc.

Policy Revision 2 (September 2002)

Case ID No. 39583

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101252112

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)	21	105%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 105%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The compliance history enhancement is due to 21 Notices of Violation (NOVs) containing the same violation that is in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 105%

Screening Date 21-Apr-2010

Docket No. 2010-0678-PWS-E

PCW

Respondent Willburr and Co., Inc.

Policy Revision 2 (September 2002)

Case ID No. 39583

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101252112

Media [Statute] Public Water Supply

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.110(e)(5) and 290.111(h)(11)

Violation Description

Failed to timely submit the surface water monthly operating report ("SWMOR") to the Commission by the tenth day of the month following the end of the reporting period. Specifically, the Respondent submitted the reports for March 2007, May 2007, June 2007, October 2007, January 2008, March 2008, May 2008, June 2008, July 2008, October 2008, January 2009, February 2009, March 2009, April 2009, May 2009, June 2009, August 2009, September 2009, November 2009, December 2009, and January 2010 to the Commission in an untimely manner.

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 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 21

1077 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$210

Twenty-one monthly events are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$21

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

Notes

The Respondent achieved compliance with this violation as of May 10, 2010.

Violation Subtotal \$189

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$45

Violation Final Penalty Total \$410

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

# Economic Benefit Worksheet

**Respondent:** Willburr and Co., Inc.  
**Case ID No.:** 39583  
**Reg. Ent. Reference No.:** RN101252112  
**Media:** Public Water Supply  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$210	10-Apr-2007	10-May-2010	3.08	\$2	\$43	\$45
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 submit the SWMORs to the TCEQ, calculated from the date that the first report was due to 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

\$210

TOTAL

\$45

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601289267 Wilburr and Co., Inc. Classification: Rating:

Regulated Entity: RN101252112 THUNDERBIRD RESORT Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0270058  
 WATER LICENSING LICENSE 0270058

Location: 200 GREENWOOD HILLS TRAIL, BURNET COUNTY, TX

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: April 23, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 23, 2005 to April 23, 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

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, 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	08/29/2006	(510417)
2	07/27/2007	(567945)
3	08/25/2008	(641943)
4	01/29/2010	(788243)
5	02/19/2010	(791298)
6	03/04/2010	(790390)
7	03/04/2010	(790407)
8	03/04/2010	(790434)
9	03/04/2010	(790464)
10	03/04/2010	(790589)
11	03/04/2010	(790594)
12	03/04/2010	(790603)
13	03/04/2010	(790781)
14	03/04/2010	(790789)
15	03/04/2010	(790792)
16	03/04/2010	(790809)
17	03/04/2010	(790810)
18	03/04/2010	(790824)
19	03/04/2010	(790829)
20	03/04/2010	(790845)
21	03/04/2010	(790846)
22	03/04/2010	(791003)

23 03/04/2010 (791016)  
24 03/04/2010 (793651)  
25 03/04/2010 (793657)  
26 03/23/2010 (795091)

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

1. Date: 05/07/2007 (788243) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: March 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
  
2. Date: 07/11/2007 (790390) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: May 2007- Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
  
3. Date: 08/07/2007 (790407) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: June 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
  
4. Date: 11/26/2007 (790434) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: October 2007 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
  
5. Date: 03/03/2008 (790464) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: January 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
  
6. Date: 04/30/2008 (790589) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: March 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

7. Date: 07/17/2008 (790594) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: May 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
8. Date: 08/04/2008 (790603) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: June 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
9. Date: 09/04/2008 (790781) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: July 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
10. Date: 01/07/2009 (790789) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: October 2008 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
11. Date: 05/13/2009 (790792) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: January 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
12. Date: 08/03/2009 (790824) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: April 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
13. Date: 08/03/2009 (790810) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: March 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

14. Date: 08/03/2009 (790809) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: February 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
15. Date: 08/03/2009 (790829) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: May 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
16. Date: 09/17/2009 (790845) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: June 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
17. Date: 01/11/2010 (790846) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: August 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
18. Date: 01/11/2010 (791003) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: September 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
19. Date: 01/11/2010 (791016) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: November 2009 - Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.
20. Date: 02/25/2010 (793651) CN601289267  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
 30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
 30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
 Description: December 2009- Failure to submit surface water monthly operating report by the tenth day of the month following the end of the reporting period.

21. Date: 02/25/2010 (793657) CN601289267  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(2)  
30 TAC Chapter 290, SubChapter F 290.110(e)(5)  
30 TAC Chapter 290, SubChapter F 290.111(h)(11)  
30 TAC Chapter 290, SubChapter F 290.111(h)(2)  
Description: January 2010 - Failure to submit surface water monthly operating report by the  
tenth day of the month following the end of the reporting period.

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  
WILLBURR AND CO., INC.  
RN101252112**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0678-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Willburr and Co., 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 presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a recreational resort with a public water supply at 200 Greenwood Hills Trail in Burnet County, Texas (the "Facility") that has approximately 25 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on February 11, 2010, TCEQ staff documented that the Respondent did not timely submit surface water monthly operating reports ("SWMORs") to the Commission by the tenth day of each month following the end of the reporting period. Specifically, the Respondent submitted the reports for March 2007, May 2007, June 2007, October 2007, January 2008, March 2008, May 2008, June 2008, July 2008, October 2008, January 2009, February 2009, March 2009, April 2009, May 2009, June 2009, August 2009, September 2009, November 2009, December 2009, and January 2010 to the Commission in an untimely manner.

3. The Respondent received notice of the violations in a letter dated March 11, 2010.
4. The Executive Director recognizes that as of May 10, 2010, the Respondent submitted all delinquent SWMORs to the Commission.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to timely submit the SWMORs to the Commission by the tenth day of each month following the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 290.110(e)(5) and 290.111(h)(11).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of One Thousand Fifty Dollars (\$1,050) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Five Dollars (\$105) of the administrative penalty. The remaining amount of Nine Hundred Forty-Five Dollars (\$945) of the administrative penalty shall be payable in nine (9) monthly payments of One Hundred Five Dollars (\$105) 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, failure by the Respondent to meet the payment schedule of this Agreed Order constitutes failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Fifty Dollars (\$1,050) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised

here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Willburr and Co., Inc., Docket No. 2010-0678-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. 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.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. 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.
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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Szollosi  
For the Executive Director

8/13/2010  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Willburr and Co., Inc.. I am authorized to agree to the attached Agreed Order on behalf of Willburr and Co., Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Willburr and Co., Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

John C. Williams  
Signature

7.9.10  
Date

JOHN C. WILLIAMS  
Name (Printed or typed)  
Authorized Representative of  
Willburr and Co., Inc.

PRESIDENT  
Title

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