

Executive Summary – Enforcement Matter – Case No. 41338
AVONDALE RANCH, LTD. d/b/a Avondale Developers
RN102841301
Docket No. 2011-0430-IHW-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
IHW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
9012 Cedar Bluffs Drive, North Richland Hills, Tarrant County

Type of Operation:
private residence located within a residential housing development

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: None
Past-Due Fees: \$454.76
Other:

This enforcement action concerns a lot which is part of a 16-acre residential development project.

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: August 19, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,000

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$5,000

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): November 30, 2009
Complaint Information: Homeowner alleged pockets of oily substances and water with a sheen pooling in sidewalk cracks, driveway cracks, and around two drains; rust-colored stains on concrete and landscaping rocks; petroleum odors; and an area in which multiple trees have died.

Date(s) of Investigation: December 30, 2009 (complaint investigation); October 5, 2010; February 16, 2011; March 21, 2011

Date(s) of NOV(s): N/A

Date(s) of NOE(s): February 23, 2011; April 16, 2011

Violation Information

1. Failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(3) and 30 TEX. ADMIN. CODE § 335.4].
2. Failed to pay outstanding fees for TCEQ Financial Account No. 20008613 [TEX. WATER CODE § 5.702 and TEX. ADMIN CODE § 290.51(a)(6)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The EPA conducted a clean-up of the eastern portion of the development in the late 1980's. In 2005, Respondent completed clean-up of the western portion. In January 2008, Respondent excavated and disposed of contaminated soil from the backyard of the site that is the subject of this enforcement action.

Technical Requirements:

1. Immediately, cease to cause, suffer, allow or permit the collection, storage, handling, and/or disposal of any additional waste at the Site;
2. Within 15, submit payment for outstanding fees.
3. Within 45 days, submit an Affected Property Assessment Report.
4. Within 60 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1 through 3.
5. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program.

Litigation Information

Date Petition(s) Filed: May 26, 2011

Date(s) Green Card(s) Signed: Unclaimed

Date(s) Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

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RN102841301
Docket No. 2011-0430-IHW-E

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Contact Information

TCEQ Attorneys: James Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Keith Frank, Waste Enforcement Section, (512) 239-1203

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903

Respondent: Scott T. Schambacher, Director, Buck Development Services, LLC, General Partner of AVONDALE RANCH, LTD., 5849 Park Vista Circle, Keller, Texas 76248

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Feb-2011	Screening	18-Mar-2011	EPA Due	
	PCW	21-Mar-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	AVONDALE RANCH, LTD. dba Avondale Developers					
Reg. Ent. Ref. No.	RN102841301					
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	41338	No. of Violations	2			
Docket No.	2011-0430-IHW-E	Order Type	Findings			
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Keith Frank			
		EC's Team	Enforcement Team 7			
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment due to compliance history.

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 Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,472
Approx. Cost of Compliance	\$64,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
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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 \$5,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$5,000
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Screening Date 18-Mar-2011 **Docket No.** 2011-0430-IHW-E

PCW

Respondent AVONDALE RANCH, LTD. dba Avondale
Case ID No. Developers
 41338

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102841301
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Keith Frank

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 18-Mar-2011

Docket No. 2011-0430-IHW-E

PCW

Respondent AVONDALE RANCH, LTD. dba Avondale Developers

Policy Revision 2 (September 2002)

Case ID No. 41338

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102841301

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 335.4 and Tex. Water Code § 26.121(a)(3)

Violation Description Failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state. Specifically, the investigator documented petroleum hydrocarbon resembling used oil on the sidewalk, driveway cracks and around two drains at the Site. Five soil samples collected at the Site contained elevated levels of total petroleum hydrocarbon ranging from 79.7 milligrams per kilogram ("mg/kg") to 3277 mg/kg.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 30 Number of violation days

Table with frequency options: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$5,000

One monthly event is recommended based on documentation of the violation during the February 16, 2011 record review to the March 18, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Before NOV, NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,472

Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent AVONDALE RANCH, LTD. dba Avondale Developers
Case ID No. 41338
Req. Ent. Reference No. RN102841301
Media Industrial and Hazardous Waste
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)				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	\$64,000	16-Feb-2011	25-Nov-2011	0.77	\$2,472	n/a	\$2,472
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an Affected Property Assessment and submit a report. Date Required is the record review date. 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

\$64,000

TOTAL

\$2,472

Screening Date 18-Mar-2011

Docket No. 2011-0430-IHW-E

PCW

Respondent AVONDALE RANCH, LTD. dba Avondale Developers

Policy Revision 2 (September 2002)

Case ID No. 41338

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102841301

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description Failed to pay outstanding fees for TCEQ Financial Account No. 20008613, as documented during a record review conducted on March 21, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes No penalty is calculated for this violation.

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event.

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A.

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent AVONDALE RANCH, LTD. dba Avondale Developers
Case ID No. 41338
Req. Ent. Reference No. RN102841301
Media Industrial and Hazardous Waste
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
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN602547606 AVONDALE RANCH, LTD. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN102841301 Realty Alliance Classification: AVERAGE Site Rating: 3.01
ID Number(s): INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD988086096
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # 52202
Location: 6601 CRANE RD, NORTH RICHLAND HILLS, TX, 76182
TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 17, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 17, 2006 to March 17, 2011

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

Name: Keith Frank Phone: (512) 239-1203

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: 9/1/2010 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.
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.)
N/A
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AVONDALE RANCH, LTD. DBA
AVONDALE DEVELOPERS;
RN102841301**

**§
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§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0430-IHW-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is AVONDALE RANCH, LTD. DBA Avondale Developers ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated a tract of land located at 9012 Cedar Bluffs Drive, North Richland Hills, Tarrant County, Texas (the "Site"), which is part of a 16-acre residential housing development with an access road located at 6601 Crane Road in North Richland Hills, Tarrant County, Texas. The Site involves the management and/or the disposal of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. During an investigation conducted on October 5, 2010, and a record review on February 16, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state. Specifically, petroleum hydrocarbon resembling used oil was observed on a sidewalk, in driveway cracks and around two drains at the Site. Five soil samples collected at the Site contained elevated levels of total petroleum hydrocarbon ranging from 79.7 milligrams per kilogram ("mg/kg"). As a result, vegetation and tree kills were noted at the Site.
3. During an investigation conducted on March 21, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent failed to pay outstanding fees for TCEQ Financial Account No. 20008613.
4. Respondent received notice of the violation alleged in Finding of Fact No. 2 on or about February 28, 2011. Respondent received notice of the violation alleged in Finding of Fact No. 3 on or about April 20, 2011.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of AVONDALE RANCH, LTD. DBA Avondale Developers" (the "EDPRP") in the TCEQ Chief Clerk's office on May 26, 2011.
6. By letter dated May 26, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent the collection, storage, handling and disposal of industrial solid waste in a manner which threatened the discharge of industrial solid waste into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(3) and 30 TEX. ADMIN. CODE § 335.4.
3. As evidenced by Finding of Fact No. 3, Respondent failed to pay outstanding fees for TCEQ Financial Account No. 20008613, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 290.51(a)(6).
4. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of five thousand dollars (\$5,000.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: AVONDALE RANCH, LTD. DBA Avondale Developers; Docket No. 2011-0430-IHW-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
Texas 78711-3087

3. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall cease to cause, suffer, allow or permit the collection, storage, handling, and/or disposal of any additional waste at the Site;
 - b. Within 15 days after the effective date of this Order, Respondent shall submit payment for outstanding fees with notation, "AVONDALE RANCH, LTD. DBA Avondale Developers, Account No. 20008613" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
Texas 78711-3087

- c. Within 45 days after the effective date of this Order, Respondent shall submit an Affected Property Assessment Report ("APAR"), pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. The APAR should be submitted to:

Environmental Cleanup Section
Remediation Division, MC 221
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. If response actions are necessary, Respondent shall comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE ch. 350, which may include plans, reports, and notices under Subsection E (30 TEX. ADMIN. CODE §§ 350.92 and 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and/or Institutional Controls under Subchapter F.
- e. Within 60 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.c. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Sid Slocum, Waste Section Manager
Texas Commission on Environmental Quality
Dallas/Fort Worth Regional Office
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of

this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

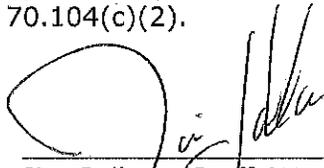
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COUNTY OF TRAVIS

"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of AVONDALE RANCH, LTD. DBA Avondale Developers (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 26, 2011.

The EDPRP was mailed to Respondent's last known address on May 26, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).



Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 3rd day of August, A.D. 2011.

Cheryl Arredondo
Notary Signature

