

**Executive Summary – Enforcement Matter – Case No. 41602
Copperas Cove MHC, L.L.C.
RN101186724
Docket No. 2011-0694-PWS-E**

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Cedar Grove Mobile Home Park, 100 Cedar Grove Drive, Coryell County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 5, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,732

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$866

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$866

Name of SEP: Travis Audubon Society, Baker Sanctuary Fence Project Phase III

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41602
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RN101186724
Docket No. 2011-0694-PWS-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: March 29, 2011
Date(s) of NOE(s): April 26, 2011

Violation Information

Failed to comply with the maximum contaminant level for total coliform and failed to provide public notice of the exceedance [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that on May 31, 2011, the Respondent submitted documentation demonstrating that it has completed six consecutive months of compliant coliform monitoring at the Facility.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Stephen Thompson, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2558; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732
Respondent: Ray K. Farris, II, Managing Member, Copperas Cove MHC, L.L.C., 8622 S. Zarzamora, San Antonio, Texas 78224
Leo Strychalski, Registered Agent, Copperas Cove MHC, L.L.C., 8622 S. Zarzamora, San Antonio, Texas 78224
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0694-PWS-E

Supplemental Environmental Project

Respondent: Copperas Cove MHC, L.L.C.
Penalty Amount: One Thousand Seven Hundred Thirty-Two Dollars (\$1,732)
SEP Offset Amount: Eight Hundred Sixty-Six Dollars (\$866)
Type of SEP: Pre-approved
Third-Party Recipient: Travis Audubon Society
Project Name: Baker Sanctuary Fence Project Phase III
Location of SEP: Travis County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Travis Audubon Society, Inc.** for the *Baker Sanctuary Fence Project Phase III*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to install an eight-foot tall game fence along 1,900 feet of the northern end of the Baker Sanctuary in order to prevent erosion and habitat destruction from the deer. The Third-Party Recipient owns the Baker Sanctuary; a 690 acre habitat preserve located in northwest Travis County for state and federally endangered Golden-cheeked Warbler and other wildlife.

In addition to providing quality habitat, this land helps filter pollutants, which enhances water quality as it flows from Lime Creek to Sandy Creek then into the Cypress Creek arm of Lake Travis. However, Baker Sanctuary has become overrun with white-tailed deer which are destroying the hardwood-juniper woodland habitat and understory plant species the Golden-cheeked Warblers need to survive. Additionally, the large population of browsing deer causes the land to erode, resulting in decreased water quality and increased runoff into Lake Travis and the Colorado River.

The Project may involve clearing no more than an eight-foot wide path to facilitate fence construction. The Third-Party Recipient shall minimize disturbance to the Golden-

cheeked Warbler during this Project, including considerations of nesting season. This is Phase III of the fence project, which will eventually enclose the entire Sanctuary.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This project will enhance the quality of the environment and prevent pollution by keeping the deer out of Baker Sanctuary, thereby reducing soil erosion and protecting water quality. Additionally, the fence will prevent destruction of habitat critical to the endangered Golden-cheeked Warbler.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

1. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Travis Audubon Society, Inc.
Attention: Executive Director
3710 Cedar Street
Austin, Texas 78705

2. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Copperas Cove MHC, L.L.C.
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
PO Box 13087
Austin, Texas 78711-3087

3. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to “Texas Commission on Environmental Quality” and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

4. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

5. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the “Clean Texas” (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

6. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-May-2011	Screening	9-May-2011	EPA Due	31-Mar-2011
	PCW	1-Jul-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Copperas Cove MHC, L.L.C.
Reg. Ent. Ref. No.	RN101186724
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	41602		Order Type
Docket No.	2011-0694-PWS-E	Government/Non-Profit	No
Media Program(s)	Public Water Supply	Enf. Coordinator	Stephen Thompson
Multi-Media		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* **\$1,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **60.0%** Enhancement *Subtotals 2, 3, & 7* **\$600**

Notes: Enhancement for four NOVs with same/similar violations and two agreed final enforcement orders containing a denial of liability.

Culpability **No** **0.0%** Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

Economic Benefit **0.0%** Enhancement* *Subtotal 6* **\$0**

Total EB Amounts **\$132**
Approx. Cost of Compliance **\$125**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$1,600**

OTHER FACTORS AS JUSTICE MAY REQUIRE **8.3%** *Adjustment* **\$132**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs of compliance.

Final Penalty Amount **\$1,732**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$1,732**

DEFERRAL **0.0%** Reduction *Adjustment* **\$0**

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 **\$1,732**

Screening Date 9-May-2011

Docket No. 2011-0694-PWS-E

PCW

Respondent Copperas Cove MHC, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41602

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101186724

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 60%

>> 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

Enhancement for four NOVs with same/similar violations and two agreed final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date 9-May-2011

Docket No. 2011-0694-PWS-E

PCW

Respondent Copperas Cove MHC, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41602

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101186724

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.031(a)

Violation Description Failed to comply with the maximum contaminant level ("MCL") for total coliform for the months of July through September and November 2010 and failed to provide public notice of the exceedance for the month of November 2010.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes As a result of the exceedance, persons served by this Facility have been exposed to significant amounts of contaminants, which do not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 4 Number of violation days 122

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

Violation Base Penalty \$1,000

Four monthly events are recommended, calculated for the months in which the exceedances occurred.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$132

Violation Final Penalty Total \$1,732

This violation Final Assessed Penalty (adjusted for limits) \$1,732

Economic Benefit Worksheet

Respondent Copperas Cove MHC, L.L.C.
Case ID No. 41602
Reg. Ent. Reference No. RN101186724
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
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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				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

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]	\$100	13-Jul-2010	23-Nov-2010	1.28	\$6	\$100	\$106
Other (as needed)	\$25	23-Nov-2010	23-Dec-2010	1.00	\$1	\$25	\$26

Notes for AVOIDED costs

The avoided costs include the estimated amount to institute procedures to ensure that coliform monitoring samples are collected in a more controlled manner as to prevent unwanted contamination resulting in MCL exceedances and to provide public notice to customers, calculated for the months in which the exceedances occurred and the month in which public notice was not issued.

Approx. Cost of Compliance

\$125

TOTAL

\$132

Compliance History

Customer/Respondent/Owner-Operator: CN603276577 Copperas Cove MHC, L.L.C. Classification: Rating:
Regulated Entity: RN101186724 CEDAR GROVE MOBILE HOME PARK Classification: Site Rating:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0500043
Location: 100 CEDAR GROVE DR, CORYELL COUNTY, TX
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: May 09, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 09, 2006 to May 09, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Stephen Thompson Phone: (512) 239-2558

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.
- Effective Date: 08/23/2009 ADMINORDER 2008-0835-PWS-E
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.39(m)
Description: Failure to provide immediate, written notification to the Commission of the reactivation of an existing public water supply system.
- Effective Date: 07/11/2010 ADMINORDER 2009-1980-MLM-E
Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)
Description: Failed to maintain a residual disinfectant concentration in the water within the distribution system of at least 0.2 mg/L free chlorine or 0.50 mg/L total chlorine.
- Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
Description: Failed to ensure that the Facility is at all times operated under the direct supervision of a water works operator that holds a valid class "D" or higher license.
- Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)
Description: Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once every seven days.
- Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(ii)(III)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(i)
Description: Failed to keep on file and make available for review an up-to-date record of water works operations and maintenance activities for operator review and reference.
- Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(5)
Description: Failed to obtain a purchase water contract that authorizes a maximum hourly purchase rate plus the actual service pump capacity of at least 2.0 gallons per minute ("gpm") per connection.
- Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
Description: Failed to obtain a purchase water contract that authorizes a maximum authorized daily

purchase rate plus the actual production capacity of at least 0.6 gpm per connection.

Classification: Minor

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

Description: Failed to compile and maintain a thorough plant operations manual for operator review and reference.

Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20(a)
30 TAC Chapter 288, SubChapter C 288.30(5)(B)

Description: Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier.

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 11/20/2009 (778700)

2 03/29/2011 (907709)

3 03/30/2011 (907949)

4 03/30/2011 (907967)

5 03/30/2011 (908063)

6 04/26/2011 (908079)

7 05/06/2011 (915545)

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

Date: 07/16/2010 (907709)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 07/2010-System Exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 08/26/2010 (907949)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 08/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 09/28/2010 (907967)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 09/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Date: 12/03/2010 (908063)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: TCR MCL Violation 11/2010 - System exceeded a Maximum Contaminant Level (MCL) Violation.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

Description: TCR PN MCL Violation 11/2010 - Failure to post a public notice for exceeding a Maximum Contaminant Level (MCL) Violation

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
COPPERAS COVE MHC, L.L.C.
RN101186724**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0694-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 Copperas Cove MHC, L.L.C. (“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 public water supply at 100 Cedar Grove Drive in Coryell County, Texas (the “Facility”) that has approximately 169 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on March 29, 2011, TCEQ staff documented that the Respondent did not comply with the maximum contaminant level ("MCL") for total coliform for the months of July through September and November 2010 and did not provide public notice of the exceedance for the month of November 2010.
3. The Respondent received notice of the violations on May 1, 2011.
4. The Executive Director recognizes that on May 31, 2011, the Respondent submitted documentation demonstrating that it has completed six consecutive months of compliant coliform monitoring at the Facility.

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 comply with the MCL for total coliform and failed to provide public notice of the exceedance, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
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 Seven Hundred Thirty-Two Dollars (\$1,732) 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 Eight Hundred Sixty-Six Dollars (\$866) administrative penalty. Eight Hundred Sixty-Six Dollars (\$866) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 Seven Hundred Thirty-Two Dollars (\$1,732) 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: Copperas Cove MHC, L.L.C., Docket No. 2011-0694-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Eight Hundred Sixty-Six Dollars (\$866) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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. 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.
6. 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.
7. 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format (“pdf”), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term “signature” shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms “electronic transmission”, “owner”, “person”, “writing”, and “written” shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. 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



For the Executive Director

8/31/11

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Copperas Cove MHC, L.L.C. I am authorized to agree to the attached Agreed Order on behalf of Copperas Cove MHC, L.L.C., 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, Copperas Cove MHC, L.L.C. 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.



BAY K. FARRIS, II, PRESIDENT OF WESTWIND ENTERPRISES (a Calif. Corp.) GENERAL PARTNER OF WESTWIND ENTERPRISE, LTD., GENERAL PARTNER OF ROMIE LANE PROPERTY *managing member copperas cove mhc, LLC*

Name (Printed or typed) Authorized Representative of Copperas Cove MHC, L.L.C. Title

7/14/11

Date

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.

Attachment A
Docket Number: 2011-0694-PWS-E

Supplemental Environmental Project

Respondent: Copperas Cove MHC, L.L.C.
Penalty Amount: One Thousand Seven Hundred Thirty-Two Dollars (\$1,732)
SEP Offset Amount: Eight Hundred Sixty-Six Dollars (\$866)
Type of SEP: Pre-approved
Third-Party Recipient: Travis Audubon Society
Project Name: Baker Sanctuary Fence Project Phase III
Location of SEP: Travis County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

Project Description

a. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Travis Audubon Society, Inc.** for the *Baker Sanctuary Fence Project Phase III*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to install an eight-foot tall game fence along 1,900 feet of the northern end of the Baker Sanctuary in order to prevent erosion and habitat destruction from the deer. The Third-Party Recipient owns the Baker Sanctuary; a 690 acre habitat preserve located in northwest Travis County for state and federally endangered Golden-cheeked Warbler and other wildlife.

In addition to providing quality habitat, this land helps filter pollutants, which enhances water quality as it flows from Lime Creek to Sandy Creek then into the Cypress Creek arm of Lake Travis. However, Baker Sanctuary has become overrun with white-tailed deer which are destroying the hardwood-juniper woodland habitat and understory plant species the Golden-cheeked Warblers need to survive. Additionally, the large population of browsing deer causes the land to erode, resulting in decreased water quality and increased runoff into Lake Travis and the Colorado River.

The Project may involve clearing no more than an eight-foot wide path to facilitate fence construction. The Third-Party Recipient shall minimize disturbance to the Golden-

cheeked Warbler during this Project, including considerations of nesting season. This is Phase III of the fence project, which will eventually enclose the entire Sanctuary.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

b. Environmental Benefit

This project will enhance the quality of the environment and prevent pollution by keeping the deer out of Baker Sanctuary, thereby reducing soil erosion and protecting water quality. Additionally, the fence will prevent destruction of habitat critical to the endangered Golden-cheeked Warbler.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

1. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Travis Audubon Society, Inc.
Attention: Executive Director
3710 Cedar Street
Austin, Texas 78705

2. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Copperas Cove MHC, L.L.C.
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
PO Box 13087
Austin, Texas 78711-3087

3. **Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP agreement in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

4. **Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

5. **Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

6. **Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.