

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1125-EAQ-E **TCEQ ID:** RN105474183 **CASE NO.:** 40008
RESPONDENT NAME: Place Properties Development Services, LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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 checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: High View Place, located at the southeast corner of Chase Hill Boulevard and Babcock Road, Bexar County</p> <p>TYPE OF OPERATION: Multi-family residential construction site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Dan Fitzpatrick, Executive Vice President-PSG, Place Properties Development Services, LLC, 3445 Peachtree Road Northeast, Suite 1400, Atlanta, Georgia 30326 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 4, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 17, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failed to obtain approval of a modification to a Water Pollution Abatement Plan ("WPAP") prior to constructing the modification. Specifically, it was observed during the investigation that a covered parking lot had been constructed prior to the modification being approved [30 TEX. ADMIN. CODE § 213.4(a)(1) and (j) and WPAP 13-08030602 Standard Conditions No. 4].</p> <p>2) Failed to maintain permanent best management practices after construction and maintain the sand filter basin, in accordance with the May 21, 2008 approval letter. Specifically, the sand basin contained trash, debris and rocks. The sand layer was not leveled, voids were noted near the polyvinyl chloride ("PVC") pipes and the edge of the basin and the discharge pipe had sediment inside the pipe and the valve appeared to be closed [30 TEX. ADMIN. CODE § 213.4 (k) and WPAP 13-08030602 Standard Conditions No. 15].</p> <p>3) Failed to comply with the conditions of the approved WPAP by failing to construct the sand filter basin as represented in its application. Specifically, the vertical clean out pipe was perforated and the approved plan requires a solid vertical clean out pipe [30 TEX. ADMIN. CODE § 213.4 (k) and WPAP 13-08030602 Special Conditions I].</p>	<p>Total Assessed: \$2,650</p> <p>Total Deferred: \$530 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,120</p> <p>Compliance History Classification: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. On May 13, 2010, replaced the perforated vertical pipe with solid PVC pipe;</p> <p>b. On May 17, 2010, obtained approval of a modification to the WPAP for the construction of the covered parking lot; and</p> <p>c. On August 2, 2010, submitted documentation showing the debris and rocks were removed from the sand filter basin; sediment was removed from the discharge pipe valve; the valve was opened and new sand was added to level the basin to prevent the voids.</p>

Additional ID No(s): Edward Aquifer Registration No. 13-08030602



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Jun-2010	Screening	12-Jul-2010	EPA Due	
	PCW	12-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Place Properties Development Services, LLC
Reg. Ent. Ref. No.	RN105474183
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40008	No. of Violations	3
Docket No.	2010-1125-EAO-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1:** \$3,000

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

Notes: No adjustment for Compliance History.

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:** \$350

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

Total EB Amounts \$102
 Approx. Cost of Compliance \$10,150
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal:** \$2,650

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment:** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.
 Notes:

Final Penalty Amount \$2,650

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty:** \$2,650

DEFERRAL 20.0% Reduction **Adjustment:** -\$530

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)
 Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,120

Screening Date 12-Jul-2010

Docket No. 2010-1125-EAQ-E

PCW

Respondent Place Properties Development Services, LLC

Policy Revision 2 (September 2002)

Case ID No. 40008

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105474183

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of	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%

Please Enter Yes or No

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 for Compliance History.

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

Screening Date 12-Jul-2010

Docket No. 2010-1125-EAQ-E

PCW

Respondent Place Properties Development Services, LLC

Policy Revision 2 (September 2002)

Case ID No. 40008

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105474183

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) and (j) and Water Pollution Abatement Plan ("WPAP") 13-08030602 Standard Conditions No. 4

Violation Description Failed to obtain approval of a modification to a WPAP prior to constructing the modification. Specifically, it was observed during the investigation that a covered parking lot had been constructed prior to the modification being approved.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100 % of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

13 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One monthly event is recommended from the period of May 4, 2010 (date of investigation) to May 17, 2010 (date of approval of the modification to the WPAP).

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 \$2

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: Place Properties Development Services, LLC

Case ID No.: 40008

Reg. Ent. Reference No.: RN105474183

Media: Edwards Aquifer

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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,150	4-May-2010	17-May-2010	0.04	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost (\$650 modification fee and \$500 for the cost of the application) to obtain approval of the modification before construction activity began. Date required is the investigation date. Final date is 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

\$1,150	TOTAL	\$2
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Screening Date 12-Jul-2010

Docket No. 2010-1125-EAQ-E

PCW

Respondent: Place Properties Development Services, LLC

Policy Revision 2 (September 2002)

Case ID No. 40008

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105474183

Media [Statute]: Edwards Aquifer

Ent. Coordinator: Cheryl Thompson

Violation Number

2

Rule Cite(s)

30 Tex. Admin. Code § 213.4(k) and WPAP
13-08030602 Standard Conditions No. 15

Violation Description

Failed to maintain permanent best management practices ("BMPs") after construction. Specifically, the sand basin contained trash, debris and rocks. The sand layer was not leveled, voids were noted near the polyvinyl chloride ("PVC") pipes and the edge of the basin and the discharge pipe had sediment inside the pipe and the valve appeared to be closed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.				0%

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 90

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of May 4, 2010 (date of investigation) to July 12, 2010 (screening date).

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes: The Respondent returned to compliance on August 2, 2010.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

Economic Benefit Worksheet

Respondent: Place Properties Development Services, LLC
Case ID No.: 40008
Reg. Ent. Reference No.: RN105474183
Media: Edwards Aquifer
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$8,000	4-May-2010	2-Aug-2010	0.25	\$99	\$99

Notes for DELAYED costs

Actual cost to replace the sand in the sand basin, to clean sediment out of the discharge pipe, remove debris from the sand basin and to open the valve. Date required is the date of the investigation. Final date is 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 \$8,000
TOTAL \$99

Screening Date 12-Jul-2010

Docket No. 2010-1125-EAQ-E

PCW

Respondent Place Properties Development Services, LLC

Policy Revision 2 (September 2002)

Case ID No. 40008

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105474183

Media [Statute] Edwards Aquifer

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 213.4 (k) and WPAP 13-08030602 Special Conditions I

Violation Description Failed to comply with the conditions of the approved WPAP by failing to construct the sand filter basin as represented in its application. Specifically, the vertical clean out pipe was perforated, the approved plan requires a solid vertical clean out pipe.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 9

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of May 4, 2010 (date of investigation) to May 13, 2010 (date of compliance).

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent returned to compliance on May 13, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$750

This violation Final Assessed Penalty (adjusted for limits) \$750

Economic Benefit Worksheet

Respondent: Place Properties Development Services, LLC

Case ID No: 40008

Reg. Ent. Reference No: RN105474183

Media: Edwards Aquifer

Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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)	\$1,000	4-May-2010	13-May-2010	0.02	\$1	n/a	\$1

Notes for DELAYED costs

Actual cost to replace perforated vertical pipe with solid PVC pipe. Date required is the date of the investigation. Final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN603227158 PLACE PROPERTIES DEVELOPMENT SERVICES LLC Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105474183 HIGH VIEW PLACE Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s): EDWARDS AQUIFER REGISTRATION 13-08030602
STORMWATER PERMIT TXR15MI25
Location: SE CORNER OF CHASE HILL BLVD AND BABCOCK RD
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: July 14, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 12, 2005 to July 12, 2010

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

Name: Cheryl Thompson Phone: (817) 588-5886

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? Yes
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
N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
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 06/21/2010 (795293)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMGs).
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
PLACE PROPERTIES
DEVELOPMENT SERVICES, LLC
RN105474183**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-1125-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Place Properties Development Services, LLC ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a multi-family residential construction site at located at the southeast corner of Chase Hill Boulevard and Babcock Road in Bexar County, Texas (the "Site").
2. The Respondent has discharged other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 22, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Six Hundred Fifty Dollars (\$2,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand One Hundred Twenty Dollars (\$2,120) of the administrative penalty and Five Hundred Thirty Dollars (\$530) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. On May 13, 2010, replaced the perforated vertical pipe with solid polyvinyl chloride ("PVC") pipe;
 - b. On May 17, 2010, obtained approval of a modification to the Water Pollution Abatement Plan ("WPAP") for the construction of the covered parking lot; and
 - c. On August 2, 2010, submitted documentation showing the debris and rocks were removed from the sand filter basin; sediment was removed from the discharge pipe valve; the valve was opened and new sand was added to level the basin and to prevent the voids.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to obtain approval of a modification to a WPAP prior to constructing the modification, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1) and (j) and WPAP 13-

08030602 Standard Conditions No. 4, as documented during an investigation conducted on May 4, 2010. Specifically, it was observed during the investigation that a covered parking lot had been constructed prior to the modification being approved.

2. Failed to maintain permanent best management practices ("BMPs") after construction and maintain the sand filter basin, in accordance with the May 21, 2008 approval letter, in violation of 30 TEX. ADMIN. CODE § 213.4 (k) and WPAP 13-08030602 Standard Conditions No. 15, as documented during an investigation conducted on May 4, 2010. Specifically, the sand basin contained trash, debris and rocks. The sand layer was not leveled, voids were noted near the PVC pipes and the edge of the basin and the discharge pipe had sediment inside the pipe and the valve appeared to be closed.
3. Failed to comply with the conditions of the approved WPAP by failing to construct the sand filter basin as represented in its application, in violation of 30 TEX. ADMIN. CODE § 213.4 (k) and WPAP 13-08030602 Special Conditions I, as documented during an investigation conducted on May 4, 2010. Specifically, the vertical clean out pipe was perforated and the approved plan requires a solid vertical clean out pipe.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Place Properties Development Services, LLC, Docket No. 2010-1125-EAQ-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 Site operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

11/22/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date

10/12/10

DAN FITZPATRICK
Name (Printed or typed)

Title

EVP - PSG

Authorized Representative of
Place Properties Development Services, LLC

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

