

**Executive Summary – Enforcement Matter – Case No. 39688**  
**Alfredo Solalinde d/b/a Pine Oak Forest Water System**  
**RN101213601**  
**Docket No. 2010-0794-PWS-E**

**Order Type:**  
Default Order

**Findings Order Justification:**  
N/A

**Media:**  
PWS

**Small Business:**  
Yes

**Location(s) Where Violation(s) Occurred:**  
17914 Mossforest Drive, Houston, Harris, County

**Type of Operation:**  
public water system

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$1,250
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** February 18, 2011

**Comments Received:** None

***Penalty Information***

<b>Total Penalty Assessed:</b>	\$378
<b>Amount Deferred for Expedited Settlement:</b>	N/A
<b>Amount Deferred for Financial Inability to Pay:</b>	N/A
<b>Total Paid to General Revenue:</b>	\$0
<b>Total Due to General Revenue:</b>	\$378
<b>SEP Conditional Offset:</b>	N/A

**Compliance History Classifications:**  
Person/CN – N/A  
Site/RN – N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** N/A  
Complaint Information: N/A  
**Date(s) of Investigation:** April 2, 2010  
**Date(s) of NOV(s):** January 14, 2009; and November 3, 2009  
**Date(s) of NOE(s):** April 14, 2010

***Violation Information***

Failed to mail or directly deliver one copy of the Consumer Confidence Report (“CCR”) to each bill-paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent no longer owns or operates the Facility as of July 12, 2010.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** September 29, 2010 (re-filed for service November 4, 2010);  
December 17, 2010  
**Date(s) Green Card(s) Signed:** Unclaimed  
**Date(s) Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):**  
Preliminary hearing: N/A  
Evidentiary hearing: N/A

***Contact Information***

**TCEQ Attorneys:** Steven M. Fishburn, Litigation Division, MC 175, (512) 239-3400  
Lena Roberts, Litigation Division, MC 175, (512) 239-3400  
**TCEQ SEP Coordinator:** N/A  
**TCEQ Enforcement Coordinator:** Amanda Henry, Water Enforcement Section, (713) 767-3672  
**TCEQ Regional Contact:** Stephen Smith, Houston Regional Office, MC R-12, (713) 767- 3581  
**Respondent:** Alfredo Solalinde, Owner, Pine Oak Forest Water System, 6811 Lower Arrow Drive,  
Houston, Texas 77086  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-May-2010			
	<b>PCW</b>	8-Sep-2010	<b>Screening</b>	13-May-2010	<b>EPA Due</b> 30-Nov-2010

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Alfredo Solalinde dba Pine Oak Forest Water System				
<b>Reg. Ent. Ref. No.</b>	RN101213601				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	39688	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2010-0794-PWS-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amanda Henry		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$50	<b>Maximum</b>	\$1,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$200
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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.

<b>Compliance History</b>	14.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$28
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**Notes** The penalty is enhanced due to two prior Notices of Violation (NOVs) containing violations that are same or similar to the violations in the current enforcement action and two dissimilar violations.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$150	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$137	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$228
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	65.8%	<b>Adjustment</b>	\$150
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	\$378
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$378
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$378
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**Screening Date** 13-May-2010

**Docket No.** 2010-0794-PWS-E

**PCW**

**Respondent** Alfredo Solalinde dba Pine Oak Forest Water System

Policy Revision 2 (September 2002)

**Case ID No.** 39688

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101213601

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Amanda Henry

### 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 ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	2	4%
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)** 14%

**>> Repeat Violator (Subtotal 3)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

The penalty is enhanced due to two prior Notices of Violation (NOVs) containing violations that are same or similar to the violations in the current enforcement action and two dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 14%

Screening Date 13-May-2010

Docket No. 2010-0794-PWS-E

PCW

Respondent Alfredo Solalinde dba Pine Oak Forest Water System

Policy Revision 2 (September 2002)

Case ID No. 39688

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101213601

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCR or the required certification to the TCEQ for the years 2007 and 2008.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2 731 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$200

Two annual events are recommended for the years during which no CCR or certification of delivery was submitted to the TCEQ.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$150

Violation Final Penalty Total \$378

This violation Final Assessed Penalty (adjusted for limits) \$378

## Economic Benefit Worksheet

**Respondent** Alfredo Solalinde dba Pine Oak Forest Water System  
**Case ID No.** 39688  
**Reg. Ent. Reference No.** RN101213601  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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]	\$137	1-Jul-2008	1-Jul-2009	1.92	\$13	\$137	\$150
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to prepare and mail or directly deliver the CCRs to the customers of the Facility (calculation: \$0.50 x 37 connections + \$50 x 2 years), calculated for the years in which no CCRs were distributed.

Approx. Cost of Compliance

\$137

**TOTAL**

\$150

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603550708	SOLALINDE, ALFREDO	Classification:	Rating:
Regulated Entity:	RN101213601	PINE OAK FOREST WATER SYSTEM	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010751	
	WATER LICENSING	LICENSE	1010751	
Location:	17914 MOSSFORD DRIVE, HARRIS COUNTY, TEXAS			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	May 11, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 11, 2005 to May 11, 2010			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Tel Croston</u>	Phone:	<u>239 - 5717</u>	

## 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 judgements, 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	06/29/2006	(480935)
2	05/15/2007	(644640)
3	08/01/2007	(645410)
4	01/14/2009	(796206)
5	11/03/2009	(797746)
6	04/28/2010	(799007)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 1 **Date: 05/15/2007** **(644640)** **CN603550708**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)  
 Description: BACT - MONITORING/REPORTING VIOLATIONS
  - 2 **Date: 08/01/2007** **(645410)** **CN603550708**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)  
 Description: PUBLIC NOTICE
  - 3 **Date: 01/14/2009** **(796206)** **CN603550708**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
 30 TAC Chapter 290, SubChapter H 290.274(a)  
 Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2007 to its bill-paying customers.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)  
 Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2007 CCR year to the TCEQ.
  - 4 **Date: 11/03/2009** **(797746)** **CN603550708**  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)  
 30 TAC Chapter 290, SubChapter H 290.274(a)  
 Description: This system did not deliver the annual Consumer Confidence Report (CCR) for 2008 to its bill-paying customers.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter H 290.274(c)  
 Description: This system failed to deliver a copy and certification of delivery of the annual Consumer Confidence Report (CCR) for the 2008 CCR year to the TCEQ.

- 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  
ALFREDO SOLALINDE d/b/a  
PINE OAK FOREST WATER  
SYSTEM;  
RN101213601**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2010-0794-PWS-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Alfredo Solalinde d/b/a Pine Oak Forest Water System ("Respondent").

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

### **FINDINGS OF FACT**

1. Respondent owned and operated a public water system located at 17914 Mossforest Drive in Houston, Harris County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately thirty-seven (37) service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During a record review conducted on April 2, 2010, a TCEQ Central Office investigator documented that Respondent failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill-paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data. Specifically, the Respondent did not mail or directly deliver the CCRs to the Facility's customers nor did the Respondent submit the CCRs or the required certification to the TCEQ for the years 2007 and 2008.
3. Respondent received notice of the violation on or about April 19, 2010.
4. The Executive Director recognizes that the Respondent no longer owns or operates the Facility as of July 12, 2010.
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 Alfredo Solalinde d/b/a Pine Oak Forest Water System" (the "EDPRP") in the TCEQ Chief Clerk's office on November 4, 2010.

6. By letter dated November 4, 2010, 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. According to the return receipt "green card," Respondent received notice of the EDPRP on November 6, 2010, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Alfredo Solalinde d/b/a Pine Oak Forest Water System" (the "EDFARP") in the TCEQ Chief Clerk's office on December 17, 2010.
8. By letter dated December 17, 2010, 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 EDFARP. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDFARP.
9. More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, 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 Finding of Fact No. 2, Respondent failed to mail or directly deliver one copy of the CCR to each bill-paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
3. 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. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Findings of Fact Nos. 7 and 8, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 9, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 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. HEALTH & SAFETY CODE § 341.049, 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 three hundred seventy-eight dollars (\$378.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049.
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 three hundred seventy-eight dollars (\$378.00) 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: Alfredo Solalinde d/b/a Pine Oak Forest Water System; Docket No. 2010-0794-PWS-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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.

6. 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.
7. 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.
8. 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

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For the Commission

**AFFIDAVIT OF STEVEN M. FISHBURN**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

"My name is Steven M. Fishburn. 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.

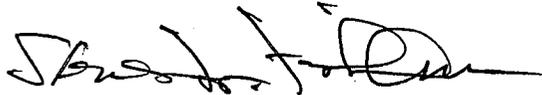
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Alfredo Solalinde d/b/a Pine Oak Forest Water System," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on November 4, 2010.

The EDPRP was mailed to Respondent's last known address on November 4, 2010 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on November 6, 2010, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Alfredo Solalinde d/b/a Pine Oak Forest Water System," (the "EDFARP") was filed in the TCEQ Chief Clerk's office on December 17, 2010.

The EDFARP was mailed to Respondent's last known address on December 17, 2010 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDFARP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP and the EDFARP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



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Steven M. Fishburn, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

**Affidavit of Steven M. Fishburn**  
**Page 2**

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, 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 26 day of January, A.D. 2011.

  
Notary Signature

