

Executive Summary – Enforcement Matter – Case No. 41079
Lower Colorado River Authority
RN102077989
Docket No. 2011-0170-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Lake Point, 3100 Napa Drive, approximately 1,000 feet north of Farm-to-Market Road 2244 and approximately 3,000 feet northeast of the intersection of Farm-to-Market Road 2244 and State Highway 71; 1 Spanish Oaks Club, Travis County

Type of Operation:

Wastewater treatment facility with an associated effluent transmission line

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 13, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$5,250

Amount Deferred for Expedited Settlement: \$1,050

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,200

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Docket No. 2011-0170-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 14 through December 21, 2010 and January 26, 2011

Date(s) of NOE(s): January 20, 2011

Violation Information

1. Failed to prevent the unauthorized discharges of wastewater. Specifically, on December 12, 2010, 500,000 gallons of treated effluent wastewater was discharged into Little Barton Creek when a line break occurred behind a home at 1 Spanish Oaks Club in the Spanish Oaks Subdivision off of Highway 71 in Travis County. On December 20, 2010, a second line break occurred in the same location discharging 650,000 gallons of treated effluent wastewater into Little Barton Creek. The breaks occurred from a treated effluent transmission line that runs from the Facility to two golf courses that are permitted irrigation sites [TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013594001, Permit Conditions No. 2.g.].

2. Failed to pay air inspection fees, consolidated water quality fees, public health service fees, and associated late fees for TCEQ Financial Account Nos. 21506828, 23005384, 90450087, 90270018, 92270167, 90270116, 92270343, 91410002, 91610052, 92270201, 91500008, 90270078, 90270081, 91500009, 90270045, 90270028, 90270011, 91500010, 91500011, 91500037, 92270235, and 90270124 for Fiscal Year 2011 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE §§ 101.24, 21.4, and 290.51(a)(3)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent completed the temporary repairs of the broken effluent transmission line by December 21, 2010.

Technical Requirements:

1. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Lower Colorado River Authority, TCEQ Financial Account Nos. 21506828, 23005384, 90450087, 90270018, 92270167, 90270116, 92270343, 91410002, 91610052, 92270201, 91500008, 90270078, 90270081, 91500009, 90270045, 90270028, 90270011, 91500010, 91500011, 91500037, 92270235, and 90270124,";
2. Within 30 days, develop and begin implementing a plan of action for the replacement of the effluent transmission line that runs from the Facility to two golf courses; and

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3. Within 150 days, submit written certification of completion of the effluent transmission line replacement.

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: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Ms. Suzanne Zarling, Executive Manager – Water Services, Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767
Mr. Kyle Jensen, Manager-River Operations, Lower Colorado River Authority, P.O. Box 220, Austin, Texas 78767
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Jan-2011	Screening	26-Jan-2011	EPA Due	
	PCW	1-Feb-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lower Colorado River Authority
Reg. Ent. Ref. No.	RN102077989
Facility/Site Region	11-Austin
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	41079	No. of Violations	2
Docket No.	2011-0170-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		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	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$250
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Notes: Enhancement for one NOV with same/similar violations within the last five years.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,038
 Approx. Cost of Compliance: \$60,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,250
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,050
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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	\$4,200
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Screening Date 26-Jan-2011

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PCW

Respondent Lower Colorado River Authority

Policy Revision 2 (September 2002)

Case ID No. 41079

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077989

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 5%

>> 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

Enhancement for one NOV with same/similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 26-Jan-2011

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PCW

Respondent Lower Colorado River Authority

Policy Revision 2 (September 2002)

Case ID No. 41079

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077989

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121, 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013594001, Permit Conditions No. 2.g

Violation Description Failed to prevent the unauthorized discharges of wastewater. Specifically, on December 12, 2010, 500,000 gallons of treated effluent wastewater was discharged into Little Barton Creek when a line break occurred behind a home at 1 Spanish Oaks Club in the Spanish Oaks Subdivision off of Highway 71 in Travis County. On December 20, 2010, a second line break occurred in the same location discharging 650,000 gallons of treated effluent wastewater into Little Barton Creek. The breaks occurred from a treated effluent transmission line that runs from the Facility to two golf courses that are permitted irrigation sites.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
Actual			X	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 2

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

Violation Base Penalty \$5,000

Two quarterly events are recommended, one for each discharge.

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,038

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent Lower Colorado River Authority
Case ID No. 41079
Req. Ent. Reference No. RN102077989
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	12-Dec-2010	21-Dec-2010	0.02	\$1	\$16	\$17
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)	\$50,000	12-Dec-2010	3-Oct-2011	0.81	\$2,021	n/a	\$2,021

Notes for DELAYED costs

The estimated cost to make temporary repairs to the broken effluent line. Date required is the date the first discharge occurred and the final date is the date the line was repaired. The estimated cost to replace the effluent transmission line. Date required is the date the first discharge occurred and the final date is the expected 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 \$60,000

TOTAL \$2,038

Screening Date 26-Jan-2011

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PCW

Respondent Lower Colorado River Authority

Policy Revision 2 (September 2002)

Case ID No. 41079

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102077989

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) Tex. Water Code § 5.702 and 30 Tex. Admin. Code §§ 101.24, 21.4, and 290.51(a)(3)

Violation Description

Failed to pay air inspection fees, consolidated water quality fees, public health service fees, and associated late fees for TCEQ Financial Account Nos. 21506828, 23005384, 90450087, 90270018, 92270167, 90270116, 92270343, 91410002, 91610052, 92270201, 91500008, 90270078, 90270081, 91500009, 90270045, 90270028, 90270011, 91500010, 91500011, 91500037, 92270235, and 90270124 for Fiscal Year 2011.

Base Penalty \$10,000

>> 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	
					0%

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
single event	<input type="checkbox"/>	

Violation Base Penalty \$0

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

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A		(mark with x)

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent Lower Colorado River Authority
Case ID No. 41079
Req. Ent. Reference No. RN102077989
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN600253637 Lower Colorado River Authority Classification: AVERAGE Rating: 2.64

Regulated Entity: RN102077989 LAKE POINT Classification: AVERAGE Site Rating: 1.00

ID Number(s): WASTEWATER PERMIT WQ0013594001
 WASTEWATER LICENSING LICENSE WQ0013594001

Location: 3100 NAPA DRIVE, APPROXIMATELY 1,000 FEET NORTH OF FARM-TO-MARKET ROAD 2244 AND APPROXIMATELY 3,000 FEET NORTHEAST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 2244 AND STATE HIGHWAY 71 WITH AN ASSOCIATED TREATED EFFLUENT TRANSMISSION LINE AT 1 SPANISH OAKS CLUB IN TRAVIS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: January 26, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 26, 2006 to January 26, 2011

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

Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/31/2007	(512974)
2	02/26/2010	(790686)
3	01/20/2011	(885745)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/26/2010 (790686) CN600253637

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 2D TWC Chapter 26, SubChapter A 26.121(a)(3)
 2D TWC Chapter 26, SubChapter A 26.121(b)
 2D TWC Chapter 26, SubChapter A 26.121(c)
 2D TWC Chapter 26, SubChapter A 26.121(d)
 2D TWC Chapter 26, SubChapter A 26.121(e)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent unauthorized discharges

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.

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LOWER COLORADO RIVER
AUTHORITY
RN102077989**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0170-MWD-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 Lower Colorado River Authority ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 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 wastewater treatment facility located at 3100 Napa Drive, approximately 1,000 feet north of Farm-to-Market Road 2244 and approximately 3,000 feet northeast of the intersection of Farm-to-Market Road 2244 and State Highway 71 with an associated treated effluent transmission line at 1 Spanish Oaks Club in Travis County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to 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 January 25, 2011.
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 Five Thousand Two Hundred Fifty Dollars (\$5,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Two Hundred Dollars (\$4,200) of the administrative penalty and One Thousand Fifty Dollars (\$1,050) 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 completed the temporary repairs of the broken effluent transmission line by December 21, 2010.
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 Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharges of wastewater, in violation of TEX. WATER CODE § 26.121, 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013594001, Permit Conditions No. 2.g, as documented during an investigation conducted from December 14, 2010 to December 21, 2010. Specifically, on December 12, 2010, 500,000 gallons of treated effluent wastewater was discharged into Little Barton Creek when a line break occurred behind a home at 1 Spanish Oaks Club in the Spanish Oaks Subdivision off of Highway 71 in Travis County. On December 20, 2010, a second line break occurred in the same location discharging 650,000 gallons of treated effluent wastewater into Little Barton Creek. The breaks occurred from a treated effluent transmission line that runs from the Facility to two golf courses that are permitted irrigation sites.

2. Failed to pay air inspection fees, consolidated water quality fees, public health service fees, and associated late fees for TCEQ Financial Account Nos. 21506828, 23005384, 90450087, 90270018, 92270167, 90270116, 92270343, 91410002, 91610052, 92270201, 91500008, 90270078, 90270081, 91500009, 90270045, 90270028, 90270011, 91500010, 91500011, 91500037, 92270235, and 90270124 for Fiscal Year 2011, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE §§ 101.24, 21.4, and 290.51(a)(3), as documented during a record review conducted on January 26, 2011.

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: Lower Colorado River Authority, Docket No. 2011-0170-MWD-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Lower Colorado River Authority, TCEQ Financial Account Nos. 21506828, 23005384, 90450087, 90270018, 92270167, 90270116, 92270343, 91410002, 91610052, 92270201, 91500008, 90270078, 90270081, 91500009, 90270045, 90270028, 90270011, 91500010, 91500011, 91500037, 92270235, and 90270124", to the address listed in Ordering Provision No. 1;
 - b. With 30 days after the effective date of this Agreed Order, develop and begin implementing a plan of action for the replacement of the effluent transmission line that runs from the Facility to two golf courses. Submit the plan of action to the addresses listed in Ordering Provision No. 2.c below; and
 - c. Within 150 days after the effective date of this Agreed Order, submit written certification of completion of the effluent transmission line replacement and with Ordering Provisions 2.a and 2.b. as described below, and include detailed

supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

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. 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.
5. 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.

6. 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.
7. 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.
8. 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 5/23/2011

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 4/5/2011

SUZANNE ZARLING

Name (Printed or typed)
Authorized Representative of
Lower Colorado River Authority

EXECUTIVE MANAGER, WATER SERVICES

Title

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.