

Executive Summary – Enforcement Matter – Case No. 40302
WHITE OAK ESTATES MHC LLC D/B/A WHIYE MHC LLC,
D/B/A WHITE OAK ESTATES I AND WHITE OAK ESTATES II
RN103017620 and RN103017612
Docket No. 2010-1574-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs) over the prior five year period for the same violations.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

22350 Luke David Road near New Caney, Montgomery County

Type of Operation:

public water systems

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$1,003.75 (FA Account No. 91700714, Facility 1) \$932.50 (FA Account No. 91700715, Facility 2)
Interested Third-Parties:	None

Texas Register Publication Date: November 18, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$5,532

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$177

Total Due to General Revenue: \$5,355

Payment Plan: 35 payments of \$153 each

SEP Conditional Offset: 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
Date(s) of Investigation: July 28, 2010; August 2, 2010; September 28, 2010
Date(s) of NOV(s): See Compliance Histories – Seven NOVs for same/similar violations
Date(s) of NOE(s): August 13, 2010; October 27, 2010

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis, and failed to provide public notification for the failure to collect routine samples (Facility 2) [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect routine distribution water samples for coliform analysis, and failed to provide public notification for the failure to collect routine samples (Facility 1) [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
3. Failed to pay all annual and late Public Health Service (“PHS”) fees for TCEQ Financial Administration (“FA”) Account No. 91700714 (Facility 1) for Fiscal Year 2010 [30 TEX. ADMIN CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].
4. Failed to pay all annual and late PHS fees for TCEQ FA Account No. 91700715 (Facility 2) for Fiscal Year 2010 [30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

As of August 12, 2010, the systems were consolidated with New Caney Municipal Utility District.

Technical Requirements:

1. Within 30 days, submit payment for outstanding fees, interest, and penalties.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: January 26, 2011
Date Answer(s) Filed: February 11, 2011
SOAH Referral Date: March 16, 2011
Hearing Date(s):
Preliminary hearing: April 28, 2011
Evidentiary hearing: October 27, 2011 (scheduled)
Settlement Date: October 18, 2011

Contact Information

TCEQ Attorneys: Stephanie J. Frazee, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
TCEQ Enforcement Coordinator: Stephen Thompson, Water Enforcement Section, (512) 239-2558
TCEQ Regional Contact: Stephen Smith, Houston Regional Office, (713) 767-3581
Respondent: Richard Nodel, Manager, White Oak Estates MHC LLC, 3000 Town Center, Suite 540, Southfield, Michigan 48075
Respondent's Attorney: Patrick W. Christensen, P.W. Christensen, P.C., 1777 NE Loop 410, Suite 600, San Antonio, Texas 78217



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Aug-2010	Screening	10-Sep-2010	EPA Due	31-Aug-2009
	PCW	14-Sep-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak Estates I)	
Reg. Ent. Ref. No.	RN103017620	
Facility/Site Region	12-Houston	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	40302	No. of Violations	2
Docket No.	2010-1574-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **37.0%** Enhancement **Subtotals 2, 3, & 7** **\$647**

Notes

Enhancement for seven NOV's with same/similar violations and one dissimilar violation.

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

Notes

The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts **\$358**
 Approx. Cost of Compliance **\$325**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,397**

OTHER FACTORS AS JUSTICE MAY REQUIRE **14.9%** **Adjustment** **\$358**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement is recommended for the recovery of avoided costs for violation No. 1.

Final Penalty Amount **\$2,755**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,755**

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

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$2,755**

Screening Date	10-Sep-2010	Docket No.	2010-1574-PWS-E	PCW
Respondent	White Oak Estates MHC LLC DBA WHIYE MHC LLC			Policy Revision 2 (September 2002)
Case ID No.	40302			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN103017620			
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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	7	35%
	Other written NOVs	1	2%
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) 37%

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

N/A	Adjustment Percentage (Subtotal 3) 0%
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>> **Compliance History Person Classification (Subtotal 7)**

N/A	Adjustment Percentage (Subtotal 7) 0%
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>> **Compliance History Summary**

Compliance History Notes

Enhancement for seven NOVs with same/similar violations and one dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date	10-Sep-2010	Docket No.	2010-1574-PWS-E	PCW
Respondent	White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak)			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	40302			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN103017620			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Amanda Henry			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm				Percent <input type="text" value="25%"/>
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak Estates I)
Case ID No. 40302
Req. Ent. Reference No. RN103017620
Media Violation No. Public Water Supply
 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]	\$175	31-Mar-2008	30-May-2009	2.08	\$18	\$175	\$193
Other (as needed)	\$150	1-Jul-2008	1-Aug-2009	2.00	\$15	\$150	\$165

Notes for AVOIDED costs

The avoided costs includes the estimated amount to collect and submit monthly water samples for bacteriological analysis (\$25/sample) and provide public notice for the failure to collect the sample (\$25 per notice), calculated for the months in which no samples were not collected and during the period a public notice was required.

Approx. Cost of Compliance \$325

TOTAL \$358

Screening Date	10-Sep-2010	Docket No.	2010-1574-PWS-E	PCW
Respondent	White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak E:			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	40302			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN103017620			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Amanda Henry			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702			
Violation Description	Failed to pay all annual and late Public Health Services ("PHS") fees for TCEQ Financial Administration Account No. 91700714 for Fiscal Year 2010.			
		Base Penalty	\$1,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

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 White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak Estates I)
Case ID No. 40302
Req. Ent. Reference No. RN103017620
Media Violation No. Public Water Supply
 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)				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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	30-Aug-2010			
	PCW	14-Sep-2010	Screening	10-Sep-2010	EPA Due
					28-Feb-2010

RESPONDENT/FACILITY INFORMATION

Respondent	White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak Estates II)	
Reg. Ent. Ref. No.	RN103017612	
Facility/Site Region	12-Houston	Major/Minor Source
		Minor

CASE INFORMATION

Enf./Case ID No.	40302	No. of Violations	2
Docket No.	2010-1574-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Amanda Henry
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,750
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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	37.0%	Enhancement	Subtotals 2, 3, & 7	\$647
Notes	Enhancement for seven NOV's with same/similar violations and one dissimilar violation.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$380	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$350			

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,397
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15.9%	Adjustment	\$380
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement is recommended for the recovery of avoided costs for violation No. 1.		
	Final Penalty Amount	\$2,777	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,777
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.		
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PAYABLE PENALTY	\$2,777
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Screening Date 10-Sep-2010 Docket No. 2010-1574-PWS-E

Respondent White Oak Estates MHC LLC DBA WHIYE MHC LLC

Case ID No. 40302

Reg. Ent. Reference No. RN103017612

Media [Statute] Public Water Supply

Enf. Coordinator Amanda Henry

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

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>)	7	35%
	Other written NOVs	1	2%
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) 37%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for seven NOVs with same/similar violations and one dissimilar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date	10-Sep-2010	Docket No.	2010-1574-PWS-E	PCW
Respondent	White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak)			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	40302			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN103017612			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Amanda Henry			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the months of September 2008 through November 2008 and April through July 2009 and did not provide public notification of the failure to collect routine samples for the months of September 2008 through November 2008 and April 2009 through July 2009.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes Failure to perform routine distribution coliform sampling may allow a significant amount of undetected contaminants that exceed levels protective of human health to be distributed to the public.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Seven monthly events are recommended.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak Estates II)
Case ID No. 40302
Req. Ent. Reference No. RN103017612
Media Violation No. Public Water Supply
 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]	\$175	30-Sep-2008	31-Jul-2009	1.75	\$15	\$175	\$190
Other (as needed)	\$175	1-Jan-2009	1-Nov-2009	1.75	\$15	\$175	\$190

Notes for AVOIDED costs

The avoided costs includes the estimated amount to collect and submit monthly water samples for bacteriological analysis (\$25/sample) and provide public notice for the failure to collect the sample (\$25 per notice), calculated for the months in which no samples were not collected and during the period a public notice was required.

Approx. Cost of Compliance \$350

TOTAL \$380

Screening Date 10-Sep-2010 **Docket No.** 2010-1574-PWS-E **PCW**
Respondent White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak E: *Policy Revision 2 (September 2002)*
Case ID No. 40302 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103017612
Media [Statute] Public Water Supply
Enf. Coordinator Amanda Henry

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(3) and Tex. Water Code § 5.702

Violation Description

Failed to pay all annual and late Public Health Services ("PHS") fees for TCEQ Financial Administration Account No. 91700715 for Fiscal Year 2010.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent White Oak Estates MHC LLC DBA WHIYE MHC LLC (White Oak Estates II)
Case ID No. 40302
Req. Ent. Reference No. RN103017612
Media Violation No. Public Water Supply
 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)			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

TOTAL

Compliance History Report

Customer/Respondent/Owner-Operator: CN603508151 White Oak Estates MHC LLC dba WHIYE MHC LLC Classification: Rating:
 Regulated Entity: RN103017620 WHITE OAK ESTATES I Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1700714
 Location: 22350 Luke Davis Road near New Caney, Montgomery County, Texas
 TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 17, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 17, 2005 to August 17, 2010

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

Name: Amanda Henry Phone: 713-767-3672

Site Compliance History Components

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
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 03/14/2006 (456921)
 - 2 05/18/2010 (800363)
 - 3 08/12/2010 (848859)
 - 4 08/13/2010 (848977)
 - 5 08/13/2010 (848979)
 - 6 08/13/2010 (848980)
 - 7 08/13/2010 (848981)
 - 8 08/13/2010 (848982)
 - 9 08/13/2010 (848983)
 - 10 08/13/2010 (848985)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/06/2006 (456921) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(3)
 Description: Failure to have a contract establish for the maximum rate at which water may be drafted on a daily and hourly basis.

Date: 04/29/2008 (848859) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 03/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 03/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 11/19/2008 (848977) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/09/2008 (848979) CN603508151

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2009 (848980) CN603508151

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 04/07/2009 (848982) CN603508151

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 01/2009 - Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 01/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/15/2009 (848981) CN603508151

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 04/2009- Failure to collect any routine monitoring sample(s).

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 04/2009- Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/14/2009 (848983) CN603508151

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).

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

Compliance History Report

Customer/Respondent/Owner-Operator: CN603508151 White Oak Estates MHC LLC dba WHIYE MHC LLC Classification: Rating:
 Regulated Entity: RN103017612 WHITE OAK ESTATES II Classification: Site Rating:
 ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1700715
 Location: 22350 Luke Davis Road near New Caney, Montgomery County, Texas
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: September 09, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 09, 2005 to September 09, 2010

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

Name: Amanda Henry Phone: 713-767-3672

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

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	03/14/2006	(456936)
2	05/18/2010	(800413)
3	08/06/2010	(844257)
4	08/10/2010	(845981)
5	08/10/2010	(845998)
6	08/10/2010	(846004)
7	08/10/2010	(846012)
8	08/10/2010	(846017)
9	08/10/2010	(846022)
10	08/24/2010	(846054)

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

Date: 03/06/2006 (456936)

CN603508151

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(3)

Description: Failure to have a contract establish for the maximum rate at which water may be drafted on a daily and hourly basis.

Date: 11/19/2008 (844257)

CN603508151

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 09/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 09/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 12/09/2008 (845981)

CN603508151

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: TCR Routine Monitoring Violation 10/2008 - Failure to collect any routine monitoring sample(s).

Self Report? NO

Classification: Moderate

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

Description: TCR PN Routine Monitoring Violation 10/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 01/13/2009 (845998) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 11/2008 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 11/2008 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/15/2009 (846004) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 04/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 04/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 07/14/2009 (846012) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 05/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 05/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 08/04/2009 (846017) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 06/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 06/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 09/16/2009 (846022) CN603508151
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 07/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 07/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

- 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 WHITE OAK ESTATES MHC LLC D/B/A WHIYE MHC LLC, D/B/A WHITE OAK ESTATES I AND WHITE OAK ESTATES II ; RN103017620 AND RN103017612	§ § § § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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AGREED ORDER

DOCKET NO. 2010-1574-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding White Oak Estates MHC LLC d/b/a Whiye MHC LLC, d/b/a White Oak Estates I and White Oak Estates II ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Patrick W. Christensen of P.W. Christensen, P.C., presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

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

FINDINGS OF FACT

1. Respondent owned and operated two public water systems located at 22350 Luke Davis Road near New Caney, Montgomery County, Texas (the "Facilities"). The Facilities provide water for human consumption. White Oak Estates I ("Facility 1") has approximately 28 service connections and serves at least 25 people per day for at least 60 days per year, and White Oak Estates II ("Facility 2") has approximately 88 service connections and serves at least 25 people per day for at least 60 days per year. As such, the Facilities are public water systems as defined in 30 TEX. ADMIN. CODE § 290.38(66).

2. During a record review of Facility 2 conducted on July 28, 2010, a TCEQ Public Water System program investigator documented that Respondent failed to collect routine distribution water samples for coliform analysis for the months of September 2008 through November 2008 and April 2009 through July 2009, and did not provide public notification for the failure to collect routine samples for the months of September 2008 through November 2008 and April 2009 through July 2009.
3. During a record review of Facility 1 conducted on August 2, 2010, a TCEQ Public Water System program investigator documented that Respondent failed to collect routine distribution water samples for coliform analysis for the months of March 2008, September 2008 through November 2008, April 2009, and May 2009, and did not provide public notification for the failure to collect routine samples for the months of March 2008, September 2008 through November 2008, January 2009, and April 2009.
4. During a record review conducted on September 28, 2010, a TCEQ Enforcement Coordinator documented that Respondent:
 - a. Failed to pay all annual and late Public Health Service ("PHS") fees for TCEQ Financial Administration ("FA") Account No. 91700714 (Facility 1) for Fiscal Year 2010; and
 - b. Failed to pay all annual and late PHS fees for TCEQ FA Account No. 91700715 (Facility 2) for Fiscal Year 2010.
5. Respondent received notice of the violations in Findings of Fact Nos. 2 and 3 on or about August 18, 2010. Respondent received notice of the violations in Findings of Fact Nos. 4.a. and 4.b. on or about November 1, 2010.
6. The Executive Director recognizes that on August 12, 2010, the Facilities were consolidated with New Caney Municipal Utility District.

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, TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Respondent failed to collect routine distribution water samples at Facility 2 for coliform analysis for the months of September 2008 through November 2008 and April 2009 through July 2009, and did not provide public notification for the failure to collect routine samples for the months of September 2008 through November 2008 and April 2009 through July 2009, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3, Respondent failed to collect routine distribution water samples at Facility 1 for coliform analysis for the months of March 2008, September 2008 through November 2008, April 2009, and May 2009, and did not provide public notification for the failure to collect routine samples for the months of March 2008, September 2008 through November 2008, January 2009, and April 2009, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.033(d).

4. As evidenced by Finding of Fact No. 4.a., Respondent failed to pay all annual and late PHS fees for TCEQ FA Account No. 91700714 (Facility 1) for Fiscal Year 2010, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
5. As evidenced by Finding of Fact No. 4.b., Respondent failed to pay all annual and late PHS fees for TCEQ FA Account No. 91700715 (Facility 2) for Fiscal Year 2010, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(3) and TEX. WATER CODE § 5.702.
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 five thousand five hundred thirty-two dollars (\$5,532.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid one hundred seventy-seven dollars (\$177.00) of the administrative penalty. The remaining amount of five thousand three hundred fifty-five dollars (\$5,355.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred fifty-three dollars (\$153.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 7, above, 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 Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: White Oak Estates MHC LLC d/b/a Whiye MHC LLC, d/b/a White Oak Estates I and White Oak Estates II, Docket No. 2010-1574-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

2. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Respondent shall submit payment for all outstanding fees, interest, and penalties for TCEQ FA Account Nos. 91700714 and 91700715. The payments shall be sent with the notation "RE: White Oak Estates MHC LLC d/b/a Whiye MHC LLC, d/b/a White Oak Estates I and II, FA Account Nos. 91700714 and 91700715" 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

- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Water Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Street, Suite H
Houston, Texas 77023

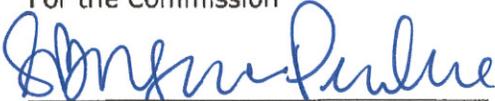
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent.

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 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, 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

12/5/2011

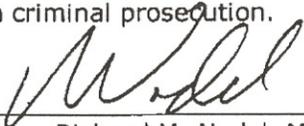
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of White Oak Estates MHC LLC d/b/a Whiye MHC LLC, d/b/a White Oak Estates I and White Oak Estates II, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature - Richard M. Nodel, Manager
White Oak Estates MHC LLC d/b/a Whiye MHC LLC

Date

10/18/11