

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44771  
JJSM DEVELOPMENT, INC.  
RN102140423  
Docket No. 2012-1883-EAQ-E

**Order Type:**

Agreed Order

**Media:**

EAQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

south end of Four-T Ranch Road, approx. 0.5 miles south of State Highway 195, Williamson County

**Type of Operation:**

residential home development site

**Other Significant Matters:**

Additional Pending Enforcement Actions: None  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third-Parties: None

**Texas Register Publication Date:** December 20, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$41,528

**Total Paid to General Revenue:** \$20,764

**Total Due to General Revenue:** \$0

**SEP Conditional Offset:** \$20,764

Name of SEP: Texas State University-San Marcos - *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone*- Colorado River Basin, Edwards Aquifer (\$13,200)

Texas Association of Resource Conservation and Development Areas, Inc. - *Cleanup of Unauthorized Dumpsites* - Brazos River Basin, Edwards-Trinity Plateau Aquifer (\$7,564)

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Average by Default

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

**Complaint Date(s):** June 7, 2012

Complaint Information: Alleged that a cave located in the Shady Oaks Estates subdivision was filled in with dirt.

**Date(s) of Investigation:** June 15, 2012

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** July 25, 2012

**Violation Information**

1. Failed to implement and maintain the approved best management practices ("BMPs") and measures to prevent pollutants from entering sensitive features and maintain the flow to naturally occurring sensitive features identified in the geologic assessment or construction within the Edwards Aquifer Recharge Zone [30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(4)(C)(iv)(I), and WPAP No. 11-99051005, Standard Conditions No. 6].
2. Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to initiating construction over the Edwards Aquifer Recharge Zone [30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.4(j)(1), and WPAP No. 11-99051005, Standard Conditions No. 2].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

On June 24, 2013, obtained approval of a modified WPAP that implements BMPs and measures to prevent pollutants from entering sensitive feature S-5 and to maintain the flow to S-5. The modified WPAP also contains a layout consistent with the current layout of the subdivision.

**Technical Requirements:**

N/A

**Litigation Information**

**Date Petition(s) Filed:** April 24, 2013  
**Date Answer(s) Filed:** May 7, 2013  
**SOAH Referral Date:** June 11, 2013  
**Hearing Date(s):**  
Preliminary hearing: August 1, 2013 (waived)  
Evidentiary hearing: November 20-21, 2013 (scheduled)  
**Settlement Date:** November 14, 2013

**Contact Information**

**TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Vic McWherter, Public Interest Counsel, (512) 239-6363  
**TCEQ SEP Attorney:** Stephanie Frazee, Litigation Division, (512) 239-3693  
**TCEQ Enforcement Coordinator:** Heather Brister, Enforcement Division, (254) 761-3034  
**TCEQ Regional Contact:** Carolyn Runyon, Austin Regional Office, (512) 239-7050  
**Respondent:** James Jacobs, President, JJSM DEVELOPMENT, INC., 3613 Williams Drive Ste. 703, Georgetown, Texas 78628  
**Respondent's Attorney:** William W. Thompson, III, Grissom & Thompson, LLP, 509 West 12<sup>th</sup> Street, Austin, TX 78701

**Attachment A**  
**Docket Number: 2012-1883-EAQ-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	JJSM DEVELOPMENT, INC.
<b>Penalty Amount:</b>	Forty-One Thousand Five Hundred Twenty-Eight Dollars (\$41,528)

<b>SEP Offset Amount:</b>	Thirteen Thousand Two Hundred Dollars (\$13,200)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas State University – San Marcos
<b>Project Name:</b>	<i>Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone</i>
<b>Location of SEP:</b>	Colorado River Basin, Edwards Aquifer

<b>SEP Offset Amount:</b>	Seven Thousand Five Hundred Sixty-Four Dollars (\$7,564)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas Association of Resource Conservation and Development Areas, Inc.
<b>Project Name:</b>	<i>Cleanup of Unauthorized Dumpsites</i>
<b>Location of SEP:</b>	Brazos River Basin, Edwards-Trinity Plateau Aquifer

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

**1. Project Descriptions**

A. Projects

**Texas State University – San Marcos**

Respondent shall contribute the SEP Offset Amount of thirteen thousand two hundred dollars to the Third-Party Administrator **Texas State University – San Marcos** for the *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone* Project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the Third-Party Administrator shall use the SEP Offset Amount to pay for sampling equipment, including the portable stormwater sampler, Gore bags, and calibration standards kits. The Third-Party Administrator shall also use the SEP Offset Amount for travel expenses up to \$.55 per mile for traveling to the wells and to collect data during storm events. The SEP Offset Amount will also be used for lab analyses of Gore bag samples and field parameters and to pay a portion of the Third-Party’s personnel’s salary for time spent collecting samples

and calibrating instruments. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

**Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)**

Respondent shall contribute the SEP Offset Amount of seven thousand five hundred sixty-four dollars to the Third-Party Administrator **Texas Association of RC&D** for the *Cleanup of Unauthorized Dumpsites* Project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities ("Partner Entities") to clean up sites where trash, tires, or other materials have been illegally disposed of (the "Project").

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste.

Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make these contributions and that they are being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

**Texas State University – San Marcos**

The continuation of the Trimmier, Witte, and La Coste Stations and the implementation of two new stations will provide valuable data for assessing water quality. Continuous monitoring of these sites will provide the public with knowledge of basic water quality in their watershed. These data will provide useful information in determining baseline conditions, long term trends, and real-time water quality for the area.

The Edwards Aquifer monitoring sites will collect data to measure the water quality of the sensitive area before, during, and after construction of the Paso Robles development and associated golf course. The Project will also monitor the surface runoff following significant rain events to determine the effects of construction activities, the use of effluent, and the application of insecticides and herbicides in the community and golf course. Further, these monitoring sites will identify any contamination of this sensitive recharge area of the Edwards Aquifer Recharge Zone and help prevent possible further introduction of contaminants.

**Texas Association of RC&D**

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

C. Minimum Expenditure

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

**2. Performance Schedule**

- A. Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas State University – San Marcos SEP** and shall mail the contribution with a copy of the Agreed Order to:

Dr. Glenn Longley  
Texas State University  
601 University Drive, JCK 420  
San Marcos, Texas 78666

- B. Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75963

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

JJSM DEVELOPMENT, INC.  
2012-1883-EAQ-E  
Attachment A

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

**5. Publicity**

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

**6. Clean Texas Program**

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

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

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	30-Jul-2012	<b>Screening</b>	14-Aug-2012	<b>EPA Due</b>	
	<b>PCW</b>	8-Oct-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	JJSM DEVELOPMENT, INC.
<b>Reg. Ent. Ref. No.</b>	RN102140423
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44771	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-1883-EAQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Edwards Aquifer	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Brister
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$18,750
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	0.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b>	\$0

<b>Notes</b>	No adjustment for compliance history.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	50.0% Enhancement*	<b>Subtotal 6</b>	\$9,375
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Total EB Amounts	\$24,286	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$50,500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$28,125
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	47.7%	<b>Adjustment</b>	\$13,403
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Reduces or enhances the Final Subtotal by the indicated percentage.		
<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 1 not captured by the Economic Benefit Enhancement.	
	<b>Final Penalty Amount</b>	\$41,528

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$41,528
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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 indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	
<b>Notes</b>	Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$41,528
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**Screening Date** 14-Aug-2012

**Docket No.** 2012-1883-EAQ-E

**PCW**

**Respondent** JJSM DEVELOPMENT, INC.

*Policy Revision 3 (September 2011)*

**Case ID No.** 44771

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN102140423

**Media [Statute]** Edwards Aquifer

**Enf. Coordinator** Heather Brister

### 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> )	0	0%
	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%
<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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

**>> Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%**

**Screening Date** 14-Aug-2012 **Docket No.** 2012-1883-EAQ-E **PCW**  
**Respondent** JJSM DEVELOPMENT, INC. *Policy Revision 3 (September 2011)*  
**Case ID No.** 44771 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN102140423  
**Media [Statute]** Edwards Aquifer  
**Enf. Coordinator** Heather Brister

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code §§ 213.4(k) and 213.5(b)(4)(C)(iv)(I), and Water Pollution Abatement Plan ("WPAP") No. 11-99051005, Standard Conditions No. 6  
**Violation Description** Failed to implement and maintain the approved best management practices ("BMPs") and measures to prevent pollutants from entering sensitive features and maintain the flow to naturally occurring sensitive features identified in the geologic assessment or construction within the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on June 15, 2012. Specifically, feature S-3, rated "possible" sensitive, is located under the front yard of a newly constructed home located at 116 Silverado Road, feature S-4, rated "possible" sensitive, is located under the garage of a newly constructed home located at 133 Silverado Road, and sensitive feature S-5 was filled in and then excavated. No best management practices were implemented for these features.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential		x		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 3 60 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$11,250

Three quarterly events are recommended, one quarter for each sensitive feature affected, from the investigation date (June 15, 2012) to the screening date (August 14, 2012).

**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** \$11,250

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$24,045 **Violation Final Penalty Total** \$24,917

**This violation Final Assessed Penalty (adjusted for limits)** \$24,917

## Economic Benefit Worksheet

**Respondent** JJSM DEVELOPMENT, INC.  
**Case ID No.** 44771  
**Reg. Ent. Reference No.** RN102140423  
**Media** Edwards Aquifer  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	15-Jun-2012	30-Apr-2013	0.87	\$29	\$583	\$612
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	\$15,000	15-Jun-2012	30-Apr-2013	0.87	\$655	n/a	\$655
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to develop and implement a closure plan for Sensitive Feature No. S-5 (the cave). Date required is the investigation date and the final date is the date anticipated 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]	\$20,000	6-Aug-2010	15-Jun-2012	2.78	\$2,778	\$20,000	\$22,778
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs** Avoided cost for the sale of land that contained Sensitive Feature Nos. S-4 and S-3 (\$10,000/each) for residential use. Date required is the sale date and the final date is the investigation date.

<b>Approx. Cost of Compliance</b>	\$45,000	<b>TOTAL</b>	\$24,045
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**Screening Date** 14-Aug-2012  
**Respondent** JJSM DEVELOPMENT, INC.  
**Case ID No.** 44771  
**Reg. Ent. Reference No.** RN102140423  
**Media [Statute]** Edwards Aquifer  
**Enf. Coordinator** Heather Brister

**Docket No.** 2012-1883-EAQ-E

**PCW**

*Policy Revision 3 (September 2011)*

*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 213.4(a)(1) and 213.4(j)(1), and WPAP No. 11-99051005, Standard Conditions No. 2

**Violation Description**

Failed to obtain approval of a modification to an approved WPAP prior to initiating construction over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on June 15, 2012. Specifically, the layout of the subdivision that was approved in 1999 was different than the current layout of the subdivision.

**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 checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

**Matrix Notes**

100% of the rule requirement was not met.

**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 checked="" type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Two monthly events are recommended from the investigation date (June 15, 2012) to the screening date (August 14, 2012).

**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="text" value="x"/>	(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** JJSM DEVELOPMENT, INC.  
**Case ID No.** 44771  
**Reg. Ent. Reference No.** RN102140423  
**Media** Edwards Aquifer  
**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
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	\$5,500	15-Jun-2012	30-Apr-2013	0.87	\$240	n/a	\$240
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost (\$5,000 modification fee and \$500 for the cost of the application) to obtain approval of the modification before construction activity began. Date required is the investigation date. Final date is the anticipated 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**

<b>Approx. Cost of Compliance</b>	\$5,500	<b>TOTAL</b>	\$240
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN603145129 JJSM DEVELOPMENT, INC. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN102140423 SHADY OAKS ESTATES Classification: AVERAGE BY DEFAULT Site Rating: 3.01  
ID Number(s): EDWARDS AQUIFER REGISTRATION 11-99051005  
Location: SOUTH END OF FOUR-T RANCH ROAD, APPROXIMATELY 0.5 MILE SOUTH OF STATE HIGHWAY 195, WILLIAMSON COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: August 13, 2012  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 13, 2007 to August 13, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Heather Brister Phone: (254) 761-3034

## 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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: 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.)  | N/A |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.)   | N/A |
| 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 |

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JJSM DEVELOPMENT, INC.;  
RN102140423**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-1883-EAQ-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding JJSM DEVELOPMENT, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by William W. Thompson, III of the law firm Grissom & Thompson, LLP, together stipulate that:

1. Respondent owns and operates a residential home development site located at the south end of Four-T Ranch Road, approximately 0.5 miles south of State Highway 195 in Williamson County, Texas (the "Site"). The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of forty-one thousand five hundred twenty-eight dollars (\$41,528.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid twenty thousand seven hundred sixty-four dollars (\$20,764.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, twenty thousand seven hundred sixty-four dollars (\$20,764.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.
6. 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.

7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 contained in this Agreed Order.
9. 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.
10. 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.
11. The Executive Director recognizes that on June 24, 2013, Respondent obtained approval of a modified Water Pollution Abatement Plan ("WPAP") that implements best management practices ("BMPs") and measures to prevent pollutants from entering sensitive feature S-5 and maintain the flow to S-5. The modified WPAP also contains a layout consistent with the current layout of the subdivision.

## **II. ALLEGATIONS**

1. During an investigation conducted on June 15, 2012, a TCEQ Austin Regional Office investigator documented that Respondent:
  - a. Failed to implement and maintain the approved BMPs and measures to prevent pollutants from entering sensitive features and maintain the flow to naturally occurring sensitive features identified in the geologic assessment or construction within the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(4)(C)(iv)(I), and WPAP No. 11-99051005, Standard Conditions No. 6. Specifically, feature S-3, rated "possible" sensitive, is located under the front yard of a newly constructed home located at 116 Silverado Road in Williamson County, Texas; feature S-4, rated "possible" sensitive, is located under the garage of a newly constructed home located at 133 Silverado Road in Williamson County, Texas; and sensitive feature S-5 was filled in and then excavated. No best management practices were implemented for these features; and
  - b. Failed to obtain approval of a modification to an approved WPAP prior to initiating construction over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.4(j)(1), and WPAP No. 11-99051005, Standard Conditions No. 2. Specifically, the layout of the subdivision that was approved in 1999 was different than the current layout of the subdivision.
2. Respondent received notice of the violations on or about July 30, 2012.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. 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 Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.
2. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph 5, above. The amount of twenty thousand seven hundred sixty-four dollars (\$20,764.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
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. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail.

Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. 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 a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

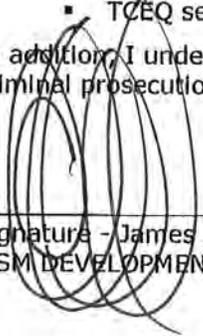
January 29, 2014  
Date

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 JJSM DEVELOPMENT, INC., 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 - James Jacobs, President  
JJSM DEVELOPMENT, INC.

11-14-2013  
Date

**Attachment A**  
**Docket Number: 2012-1883-EAQ-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	JJSM DEVELOPMENT, INC.
<b>Penalty Amount:</b>	Forty-One Thousand Five Hundred Twenty-Eight Dollars (\$41,528)

<b>SEP Offset Amount:</b>	Thirteen Thousand Two Hundred Dollars (\$13,200)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas State University – San Marcos
<b>Project Name:</b>	<i>Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone</i>
<b>Location of SEP:</b>	Colorado River Basin, Edwards Aquifer

<b>SEP Offset Amount:</b>	Seven Thousand Five Hundred Sixty-Four Dollars (\$7,564)
<b>Type of SEP:</b>	Contribution to a Pre-Approved Third-Party Administrator
<b>Third-Party Administrator:</b>	Texas Association of Resource Conservation and Development Areas, Inc.
<b>Project Name:</b>	<i>Cleanup of Unauthorized Dumpsites</i>
<b>Location of SEP:</b>	Brazos River Basin, Edwards-Trinity Plateau Aquifer

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

**1. Project Descriptions**

A. Projects

**Texas State University – San Marcos**

Respondent shall contribute the SEP Offset Amount of thirteen thousand two hundred dollars to the Third-Party Administrator **Texas State University – San Marcos** for the *Water Quality Monitoring of River Basins and Edwards Aquifer Recharge Zone* Project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the Third-Party Administrator shall use the SEP Offset Amount to pay for sampling equipment, including the portable stormwater sampler, Gore bags, and calibration standards kits. The Third-Party Administrator shall also use the SEP Offset Amount for travel expenses up to \$.55 per mile for traveling to the wells and to collect data during storm events. The SEP Offset Amount will also be used for lab analyses of Gore bag samples and field parameters and to pay a portion of the Third-Party’s personnel’s salary for time spent collecting samples

and calibrating instruments. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

**Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)**

Respondent shall contribute the SEP Offset Amount of seven thousand five hundred sixty-four dollars to the Third-Party Administrator **Texas Association of RC&D** for the *Cleanup of Unauthorized Dumpsites* Project. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to coordinate with city and county government officials and private entities ("Partner Entities") to clean up sites where trash, tires, or other materials have been illegally disposed of (the "Project").

The Third-Party Administrator shall ensure that collected debris and waste is properly transported to and disposed of at an authorized disposal facility. If a licensed hauler is needed for tires or other waste collected from sites, the Third-Party Administrator shall ensure that only properly licensed haulers are used for transport and disposal of tires and other waste.

Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that Respondent has no prior commitment to make these contributions and that they are being contributed solely in an effort to settle this enforcement action. Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

**Texas State University – San Marcos**

The continuation of the Trimmier, Witte, and La Coste Stations and the implementation of two new stations will provide valuable data for assessing water quality. Continuous monitoring of these sites will provide the public with knowledge of basic water quality in their watershed. These data will provide useful information in determining baseline conditions, long term trends, and real-time water quality for the area.

The Edwards Aquifer monitoring sites will collect data to measure the water quality of the sensitive area before, during, and after construction of the Paso Robles development and associated golf course. The Project will also monitor the surface runoff following significant rain events to determine the effects of construction activities, the use of effluent, and the application of insecticides and herbicides in the community and golf course. Further, these monitoring sites will identify any contamination of this sensitive recharge area of the Edwards Aquifer Recharge Zone and help prevent possible further introduction of contaminants.

**Texas Association of RC&D**

This SEP shall rid communities of the dangers and health threats associated with non-regulated dumping and will provide removal of waste that contaminates air, soil, and water, and harbors disease-carrying animals and insects.

C. Minimum Expenditure

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

**2. Performance Schedule**

- A. Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas State University – San Marcos SEP** and shall mail the contribution with a copy of the Agreed Order to:

Dr. Glenn Longley  
Texas State University  
601 University Drive, JCK 420  
San Marcos, Texas 78666

- B. Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. Respondent shall make the check payable to **Texas Association of RC&D SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Association of RC&D  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75963

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

JJSM DEVELOPMENT, INC.  
2012-1883-EAQ-E  
Attachment A

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

**5. Publicity**

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

**6. Clean Texas Program**

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

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

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