

**Executive Summary – Enforcement Matter – Case No. 50156**  
**ALF Properties L.L.C.**  
**RN107275323**  
**Docket No. 2015-0313-WQ-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

WQ

**Small Business:**

Yes

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

4L Processing, 5428 Farm-to-Market ("FM") Road 69, Como, Wood County

**Type of Operation:**

Pig processing facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** October 2, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,750

**Amount Deferred for Expedited Settlement:** \$3,150

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$525

**Total Due to General Revenue:** \$12,075

Payment Plan: 23 payments of \$525 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 50156**  
**ALF Properties L.L.C.**  
**RN107275323**  
**Docket No. 2015-0313-WQ-E**

***Investigation Information***

**Complaint Date(s):** October 22, 2014 and October 27, 2014

**Complaint Information:** Complainants alleged sewage problems.

**Date(s) of Investigation:** October 29, 2014

**Date(s) of NOE(s):** February 5, 2015

***Violation Information***

Failed to prevent the unauthorized discharge of wastewater from the Facility into or adjacent to water in the state. Specifically, the Facility's wastewater berm failed, which allowed wastewater to discharge from the irrigation field to a ditch along FM Road 69, then to a culvert under FM Road 69, then across private property located at 5428 FM Road 69, and then into Glade Branch [TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 321.54(4) and 321.57].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. By December 11, 2014, repaired the Facility's berm and ceased the unauthorized discharge of wastewater from the berm into or adjacent to water in the state;
- b. By April 27, 2015, submitted a permit application to the TCEQ Water Quality Division;
- c. By May 21, 2015, removed and properly disposed of the discharged wastewater and properly remediated the affected areas; and
- d. By June 16, 2015, completed construction of an aerated lagoon wastewater treatment unit.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, continue taking all necessary measures to prevent additional unauthorized discharges of wastewater into or adjacent to water in the state until authorization to discharge wastewater has been obtained from the Commission;
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing; and

**Executive Summary – Enforcement Matter – Case No. 50156**

**ALF Properties L.L.C.**

**RN107275323**

**Docket No. 2015-0313-WQ-E**

c. Within 345 days, submit written certification of compliance that either authorization to discharge wastewater has been obtained from the Commission or that permanent measures have been taken to prevent additional discharges of wastewater.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Christopher Bost, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4575; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Amber Ferry, President, ALF Properties L.L.C., 5428 FM Road 69, Como, Texas 75431-2428

**Respondent's Attorney:** Cynthia J. Bishop, C Bishop Law PC, P. O. Box 612994, Dallas, Texas 75261





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	9-Feb-2015	<b>Screening</b>	20-Feb-2014	<b>EPA Due</b>	
	<b>PCW</b>	29-Jun-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	ALF Properties L.L.C.		
<b>Reg. Ent. Ref. No.</b>	RN107275323		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	50156	<b>No. of Violations</b>	1
<b>Docket No.</b>	2015-0313-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Christopher Bost
		<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>	<b>\$15,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$750</b>
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Notes: Enhancement for one NOV with same/similar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$10,057	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$226,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$15,750</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$15,750</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$15,750</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$3,150</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$12,600</b>
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Screening Date 20-Feb-2014

Docket No. 2015-0313-WQ-E

PCW

Respondent ALF Properties L.L.C.

Policy Revision 4 (April 2014)

Case ID No. 50156

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107275323

Media [Statute] Water Quality

Enf. Coordinator Christopher Bost

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 5%

**Screening Date** 20-Feb-2014  
**Respondent** ALF Properties L.L.C.  
**Case ID No.** 50156  
**Reg. Ent. Reference No.** RN107275323  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Christopher Bost

**Docket No.** 2015-0313-WQ-E

**PCW**

Policy Revision 4 (April 2014)  
 PCW Revision March 26, 2014

**Violation Number** 1

**Rule Cite(s)** Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code §§ 321.54(4) and 321.57

**Violation Description**

Failed to prevent the unauthorized discharge of wastewater from the Facility into or adjacent to water in the state, as documented during an investigation conducted on October 29, 2014. Specifically, the Facility's wastewater berm failed, which allowed wastewater to discharge from the irrigation field to a ditch along Farm-to-Market ("FM") Road 69, then to a culvert under FM Road 69, then across private property located at 5428 FM Road 69, and then into Glade Branch. Grab samples collected during the investigation reflected an adverse impact on the water quality of Glade Branch, as shown in the attached table.

**Base Penalty** \$25,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		15.0%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$15,000

Four monthly events are recommended from the investigation date (October 29, 2014) to the screening date (February 20, 2015).

**Good Faith Efforts to Comply**

Reduction \$0

Before NOE/NOV NOE/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** \$15,000

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$10,057

**Violation Final Penalty Total** \$15,750

**This violation Final Assessed Penalty (adjusted for limits)** \$15,750

## Economic Benefit Worksheet

**Respondent** ALF Properties L.L.C.  
**Case ID No.** 50156  
**Reg. Ent. Reference No.** RN107275323  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	29-Oct-2014	11-Dec-2014	0.12	\$2	\$39	\$41
Engineering/Construction	\$200,000	29-Oct-2014	16-Jun-2015	0.63	\$420	\$8,402	\$8,822
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	\$1,000	29-Oct-2014	21-May-2015	0.56	\$28	n/a	\$28
Permit Costs	\$10,000	29-Oct-2014	20-Mar-2016	1.39	\$696	n/a	\$696
Other (as needed)	\$10,000	29-Oct-2014	7-Oct-2015	0.94	\$470	n/a	\$470

#### Notes for DELAYED costs

The first delayed cost includes the estimated amount to repair the Facility's berm and cease the unauthorized discharge of wastewater from the berm into or adjacent to water in the state. Date required is the investigation date. Final date is the date of compliance.

The second delayed cost includes the estimated amount to construct an aerated lagoon wastewater treatment unit. Date required is the investigation date. Final date is the approximate date that construction was completed.

The third delayed cost includes the estimated amount to remove and properly dispose of the discharged wastewater and properly remediate the affected areas. Date required is the investigation date. Final date is the date of compliance.

The fourth delayed cost includes the estimated amount to obtain authorization to discharge wastewater. Date required is the date of the investigation. Final date is the estimated date of compliance.

The fifth delayed cost includes the estimated amount to continue taking all necessary measures to prevent future discharges of wastewater until authorization to discharge is obtained from the Commission. Date required is the investigation date. Final date is the estimated date of compliance.

### Avoided Costs

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

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

#### Notes for AVOIDED costs

Approx. Cost of Compliance	\$226,000	<b>TOTAL</b>	\$10,057
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**GRAB SAMPLE RESULTS****ALF Properties L.L.C.****Docket No. 2015-0313-WQ-E**

<b>Parameter</b>	<b>Samples taken from the pump tank following the final treatment unit of the on-site aerobic system</b>	<b>Samples taken from the pooled sewage located on the west side of Farm-to-Market Road 69</b>	<b>Samples taken approximately 1,200 feet downstream of the Facility in Glade Branch</b>	<b>Background samples taken from a tributary of Glade Branch</b>
<b>TSS</b>	408 mg/L	134 mg/L	41 mg/L	28 mg/L
<b>VSS</b>	348 mg/L	36 mg/L	19 mg/L	15 mg/L
<b>NH<sub>3</sub>-N</b>	374 mg/L	279 mg/L	11.4 mg/L	0.11 mg/L

TSS = total suspended solids

VSS = volatile suspended solids

NH<sub>3</sub>-N = ammonia-nitrogen

mg/L = milligrams per liter





# Compliance History Report

**PUBLISHED** Compliance History Report for CN604577072, RN107275323, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604577072, ALF Properties L.L.C.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	4.40
<b>Regulated Entity:</b>	RN107275323, 4L PROCESSING	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	4.40
<b>Complexity Points:</b>	5	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	Located at 5428 Farm-to-Market Road 69 in Como, Wood County, Texas				
<b>TCEQ Region:</b>	REGION 05 - TYLER				

**ID Number(s):**  
STORMWATER PERMIT TXR05CC33

<b>Compliance History Period:</b>	September 01, 2009 to August 31, 2014	<b>Rating Year:</b>	2014	<b>Rating Date:</b>	09/01/2014
<b>Date Compliance History Report Prepared:</b>	April 07, 2015				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	April 07, 2010 to April 07, 2015				

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Christopher Bost **Phone:** (512) 239-4575

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

**Components (Multimedia) for the Site Are Listed in Sections A - J**

- A. Final Orders, court judgments, and consent decrees:**  
N/A
- B. Criminal convictions:**  
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.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	04/08/2014 (1171033)		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 281, SubChapter A 281.25(a)(4)		
	Description:	Failure to have coverage under the Texas Commission on Environmental Quality		

Industrial General Permit for Storm Water. This Regulated Entity has a Standard Industrial Classification (SIC) Code of 2011.

Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 321, SubChapter C 321.54  
Description: Failure to maintain the tailwater berm at the irrigation field to prevent an unauthorized discharge. The berm was observed during this investigation to have failed allowing for an unauthorized discharge.

Self Report? NO Classification: Major  
Citation: 30 TAC Chapter 321, SubChapter C 321.57  
TWC Chapter 26 26.121  
Description: Failure to prevent the unauthorized discharge of wastewater, and failure to collect and properly dispose of the wastewater that was allowed to flow off site and pool adjacent to Glade Branch.

**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  
ALF PROPERTIES L.L.C.  
RN107275323**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2015-0313-WQ-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ALF Properties L.L.C. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Cynthia J. Bishop of the law firm of C Bishop Law PC, together stipulate that:

1. The Respondent owns and operates a pig processing facility located at 5428 Farm-to-Market Road 69 in Como, Wood County, Texas (the "Facility").
2. The Respondent has discharged agricultural waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 10, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifteen Thousand Seven Hundred Fifty Dollars (\$15,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Twenty-Five Dollars (\$525) of the administrative penalty and Three Thousand One Hundred Fifty Dollars (\$3,150) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twelve Thousand Seventy-Five Dollars (\$12,075) of the administrative penalty shall be payable in 23 monthly payments of Five Hundred Twenty-Five Dollars (\$525) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By December 11, 2014, repaired the Facility's berm and ceased the unauthorized discharge of wastewater from the berm into or adjacent to water in the state.
  - b. By April 27, 2015, submitted a permit application to the TCEQ Water Quality Division, in accordance with 30 TEX. ADMIN. CODE ch. 305.
  - c. By May 21, 2015, removed and properly disposed of the discharged wastewater and properly remediated the affected areas.
  - d. By June 16, 2015, completed construction of an aerated lagoon wastewater treatment unit.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to prevent the unauthorized discharge of wastewater from the Facility into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1) and 30 TEX. ADMIN. CODE §§ 321.54(4) and 321.57, as documented during an investigation conducted on October 29, 2014. Specifically, the Facility’s wastewater berm failed, which allowed wastewater to discharge from the irrigation field to a ditch along Farm-to-Market (“FM”) Road 69, then to a culvert under FM Road 69, then across private property located at 5428 FM Road 69, and then into Glade Branch. Grab samples collected during the investigation reflected an adverse impact on the water quality of Glade Branch, as shown in the table below:

<b>GRAB SAMPLE RESULTS</b>				
<b>Parameter</b>	<b>Samples taken from the pump tank following the final treatment unit of the on-site aerobic system</b>	<b>Samples taken from the pooled sewage located on the west side of Farm-to-Market Road 69</b>	<b>Samples taken approximately 1,200 feet downstream of the Facility in Glade Branch</b>	<b>Background samples taken from a tributary of Glade Branch</b>
<b>TSS</b>	408 mg/L	134 mg/L	41 mg/L	28 mg/L
<b>VSS</b>	348 mg/L	36 mg/L	19 mg/L	15 mg/L
<b>NH<sub>3</sub>-N</b>	374 mg/L	279 mg/L	11.4 mg/L	0.11 mg/L

TSS = total suspended solids  
 VSS = volatile suspended solids  
 NH<sub>3</sub>-N = ammonia-nitrogen  
 mg/L = milligrams per liter

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ALF Properties L.L.C., Docket No. 2015-0313-WQ-E" to:  
  

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, continue taking all necessary measures to prevent additional unauthorized discharges of wastewater from the Facility into or adjacent to water in the state until authorization to discharge wastewater has been obtained from the Commission.
  - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.
  - c. Within 345 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to discharge wastewater has been obtained from the Commission or that permanent measures have been taken to prevent additional discharges of wastewater, in accordance with Ordering Provision No. 2.d below.
  - d. The written certification of compliance required by Ordering Provision No. 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public, and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager  
Tyler Regional Office  
Texas Commission on Environmental Quality  
2916 Teague Drive  
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pamela Young  
For the Executive Director

11/19/15  
Date

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

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

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

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

Amber L Ferry  
Signature

7-26-15  
Date

Amber L Ferry  
Name (Printed or typed)  
Authorized Representative of  
ALF Properties L.L.C.

President  
Title

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