Executive Summary – Enforcement Matter – Case No. 51199
At the Tower RV & Boat Storage LLC
RN108632704
Docket No. 2015-1323-MLM-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
MLM – EAQ, WQ
Small Business:
Yes
Location(s) Where Violation(s) Occurred:
At the Tower RV and Boat Storage, 631 County Road 175, Leander, Williamson County
Type of Operation:
Commercial property
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: January 15, 2016
Comments Received: No

Penalty Information

Total Penalty Assessed: $15,875
Amount Deferred for Expedited Settlement: $3,175
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $380
Total Due to General Revenue: $12,320
Payment Plan: 35 payments of $352 each
Supplemental Environmental Project ("SEP") Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - N/A
Site/RN - N/A
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51199
At the Tower RV & Boat Storage LLC
RN108632704
Docket No. 2015-1323-MLM-E

Investigation Information

Complaint Date(s): June 18, 2015
Complaint Information: Alleged stormwater was flowing from the property causing flooding issues and there was construction without a permit.
Date(s) of Investigation: June 25, 2015
Date(s) of NOE(s): August 20, 2015

Violation Information

1. Failed to obtain authorization to discharge stormwater associated with construction activities. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

2. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing the construction of any regulated activity over the Edwards Aquifer Recharge and Contributing Zones. Specifically, construction of storage spaces, service roads, parking, and infilling was conducted, disturbing approximately 4.77 acres without the approval of a Water Pollution Abatement Plan ("WPAP") [30 TEX. ADMIN. CODE § 213.4(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On September 18, 2015, the Respondent obtained authorization to discharge stormwater under TPDES General Permit No. TXR150020943.

Technical Requirements:

The Order will require the Respondent to:

a. Immediately, cease any regulated activity at the Site until such time that an Edwards Aquifer WPAP has been reviewed and approved by the TCEQ Regional Office;

b. Within 30 days, submit a WPAP application for review and approval;

c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the WPAP application within 30 days after the date of such requests or by any other deadline specified in writing; and

d. Within 45 days, submit written certification to demonstrate compliance with b.

Executive Summary – Enforcement Matter – Case No. 51199
At the Tower RV & Boat Storage LLC
RN108632704
Docket No. 2015-1323-MLM-E

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: Austin Henck, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-6155; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Glenn George, Owner, At the Tower RV & Boat Storage LLC, 631 County Road 175, Leander, Texas 78641
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES

Assigned	24-Aug-2015				
PCW	31-Aug-2015	**Screening**	28-Aug-2015	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	At the Tower RV & Boat Storage LLC		
Reg. Ent. Ref. No.	RN108632704		
Facility/Site Region	11-Austin	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	51199	**No. of Violations**	1
Docket No.	2015-1323-MLM-E	**Order Type**	1660
Media Program(s)	Edwards Aquifer	**Government/Non-Profit**	No
Multi-Media	Water Quality	**Enf. Coordinator**	Austin Henck
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 **Maximum** $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$12,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement — ***Subtotals 2, 3, & 7*** **$0**

Notes: No adjustment for compliance history.

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**

**Capped at the Total EB $ Amount*

Total EB Amounts	$307
Estimated Cost of Compliance	$6,500

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$12,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$12,500**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$12,500**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$2,500**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$10,000**

Screening Date 28-Aug-2015 **Docket No.** 2015-1323-MLM-E **PCW**

Respondent At the Tower RV & Boat Storage LLC *Policy Revision 4 (April 2014)*

Case ID No. 51199 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN108632704

Media [Statute] Edwards Aquifer

Enf. Coordinator Austin Henck

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 0%

>> 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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date 28-Aug-2015 **Docket No.** 2015-1323-MLM-E **PCW**

Respondent At the Tower RV & Boat Storage LLC

Policy Revision 4 (April 2014)

Case ID No. 51199

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108632704

Media [Statute] Edwards Aquifer

Enf. Coordinator Austin Henck

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1)

Violation Description Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing the construction of any regulated activity over the Edwards Aquifer Recharge and Contributing Zones, as documented during an investigation conducted on June 25, 2015. Specifically, construction of storage spaces, service roads, parking, and infilling was conducted, disturbing approximately 4.77 acres without the approval of a Water Pollution Abatement Plan ("WPAP").

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events 10 | 64 Number of violation days

mark only one with an x

daily	
weekly	X
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $12,500

Ten weekly events are recommended from the investigation date of June 25, 2015, to the screening date of August 28, 2015.

Good Faith Efforts to Comply

0.0% **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 $12,500

Economic Benefit (EB) for this violation

Estimated EB Amount $307

Statutory Limit Test

Violation Final Penalty Total $12,500

This violation Final Assessed Penalty (adjusted for limits) $12,500

Economic Benefit Worksheet

Respondent At the Tower RV & Boat Storage LLC
Case ID No. 51199
Reg. Ent. Reference No. RN108632704
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				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	$6,500	25-Jun-2015	4-Jun-2016	0.95	$307	n/a	$307
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs Estimated cost to prepare and submit a WPAP and obtain approval. Date required is the investigation date and the final date is the expected date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance $6,500

TOTAL $307

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES

Assigned	24-Aug-2015				
PCW	31-Aug-2015	**Screening**	28-Aug-2015	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	At the Tower RV & Boat Storage LLC		
Reg. Ent. Ref. No.	RN108632704		
Facility/Site Region	11-Austin	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	51199	**No. of Violations**	1
Docket No.	2015-1323-MLM-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	No
Multi-Media	Edwards Aquifer	**Enf. Coordinator**	Austin Henck
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 **Maximum** $25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — ***Subtotal 1*** **$3,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement — ***Subtotals 2, 3, & 7*** **$0**

Notes: No adjustment for compliance history.

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*** **-$375**

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

Total EB Amounts $23

Estimated Cost of Compliance $2,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — ***Final Subtotal*** **$3,375**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** — ***Adjustment*** **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$3,375**

STATUTORY LIMIT ADJUSTMENT — ***Final Assessed Penalty*** **$3,375**

DEFERRAL **20.0%** Reduction — ***Adjustment*** **-$675**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$2,700**

Screening Date 28-Aug-2015 **Docket No.** 2015-1323-MLM-E **PCW**

Respondent At the Tower RV & Boat Storage LLC *Policy Revision 4 (April 2014)*

Case ID No. 51199 *PCW Revision March 26, 2014*

Reg. Ent. Reference No. RN108632704

Media [Statute] Water Quality

Enf. Coordinator Austin Henck

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgments or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	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) 0%

>> 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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date 28-Aug-2015 **Docket No.** 2015-1323-MLM-E **PCW**

Respondent At the Tower RV & Boat Storage LLC

Policy Revision 4 (April 2014)

Case ID No. 51199

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108632704

Media [Statute] Water Quality

Enf. Coordinator Austin Henck

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge stormwater associated with construction activities, as documented during an investigation conducted on June 25, 2015. Specifically, the Respondent was performing construction activities prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR150000.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes: 100% of the rule requirements were not met.

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events 3

64 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $3,750

Three monthly events are recommended from the investigation date of June 25, 2015, to the screening date of August 28, 2015.

Good Faith Efforts to Comply

10.0% Reduction $375

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes: The Respondent achieved compliance on September 18, 2015.

Violation Subtotal $3,375

Economic Benefit (EB) for this violation

Estimated EB Amount $23

Statutory Limit Test

Violation Final Penalty Total $3,375

This violation Final Assessed Penalty (adjusted for limits) $3,375

Economic Benefit Worksheet

Respondent At the Tower RV & Boat Storage LLC
Case ID No. 51199
Reg. Ent. Reference No. RN108632704
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$2,000	25-Jun-2015	18-Sep-2015	0.23	$23	n/a	$23
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to prepare and submit a Notice of Intent, and develop and implement a Stormwater Pollution Prevention Plan. Date required is the date of the investigation and the final date is the 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: $2,000

TOTAL $23

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN604911503, RN108632704, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator:	CN604911503, At the Tower RV & Boat Storage LLC	**Classification:** NOT APPLICABLE	**Rating:** N/A
Regulated Entity:	RN108632704, At the Tower RV and Boat Storage	**Classification:** NOT APPLICABLE	**Rating:** N/A
Complexity Points:	N/A	**Repeat Violator:** N/A	
CH Group:	09 - Construction		
Location:	631 COUNTY ROAD 175 IN LEANDER, WILLIAMSON COUNTY, TEXAS.		
TCEQ Region:	REGION 11 - AUSTIN		
ID Number(s):	WATER QUALITY NON PERMITTED ID NUMBER R11108632704		

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: August 25, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 25, 2010 to August 25, 2015

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

Name: Austin Henck **Phone:** (512) 239-6155

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.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING AT THE TOWER RV & BOAT STORAGE LLC RN108632704	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2015-1323-MLM-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 At the Tower RV & Boat Storage LLC ("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, through counsel, together stipulate that:

1. The Respondent owns and operates a commercial property at 631 County Road 175 in Leander, Williamson County, Texas (the "Site").

2. 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).

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 August 25, 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 Eight Hundred Seventy-Five Dollars ($15,875) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Eighty Dollars ($380) of the administrative penalty and Three Thousand One Hundred Seventy-Five Dollars ($3,175) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

   The remaining amount of Twelve Thousand Three Hundred Twenty Dollars ($12,320) of the administrative penalty shall be payable in thirty-five monthly payments of Three Hundred Fifty-Two Dollars ($352) 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 on September 18, 2015, the Respondent obtained authorization to discharge stormwater under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR150020943.

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 Site, the Respondent is alleged to have:

1. Failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on June 25, 2015. Specifically, the Respondent was performing construction activities prior to obtaining authorization under TPDES General Permit No. TXR150000.

2. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing the construction of any regulated activity over the Edwards Aquifer Recharge and Contributing Zones, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), as documented during an investigation conducted on June 25, 2015. Specifically, construction of storage spaces, service roads, parking, and infilling was conducted, disturbing approximately 4.77 acres without the approval of a Water Pollution Abatement Plan ("WPAP").

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: At the Tower RV & Boat Storage LLC, Docket No. 2015-1323-MLM-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, cease any regulated activity at the Site until such time that an Edwards Aquifer WPAP has been reviewed and approved by the TCEQ Regional Office.

   b. Within 30 days after the effective date of this Agreed Order, submit a WPAP application for review and approval to:

Edwards Aquifer Protection Program
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

c. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the WPAP application within 30 days after the date of such requests or by any other deadline specified in writing.

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

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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 Site 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. The effective date of this Order is the date it is signed by the Commission. 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 — Date

For the Executive Director — Date: 3/25/16

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

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

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

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

Signature — Date: 12/6/15

Glenn George
Name (Printed or typed)
Authorized Representative of
At the Tower RV & Boat Storage LLC

Owner
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.