

# State Office of Administrative Hearings



Shelia Bailey Taylor  
Chief Administrative Law Judge  
February 12, 2007

2007 FEB 12 PM 4:05  
CHIEF CLERK'S OFFICE  
TEXAS COMMISSION  
ON ENVIRONMENTAL  
QUALITY

Derek Seal  
General Counsel  
Texas Commission on Environmental Quality  
PO Box 13087  
Austin Texas 78711-3087

**Re: SOAH Docket No. 582-06-2366; TCEQ Docket No. 2005-1177-PSW-E; IN THE MATTER OF AN ENFORCEMENT ACTION AGAINST AL JABOUR DBA RIVERS COUNTRY VILLAS AND RV PARK RN101262673**

Dear Mr. Seal:

The above-referenced matter will be considered by the Texas Commission on Environmental Quality on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

Enclosed are copies of the Proposal for Decision and Order that have been recommended to the Commission for approval. Any party may file exceptions or briefs by filing the original documents with the Chief Clerk of the Texas Commission on Environmental Quality no later than March 5, 2007. Any replies to exceptions or briefs must be filed in the same manner no later than March 15, 2007.

This matter has been designated **TCEQ Docket No. 2005-1177-PSW-E; SOAH Docket No. 582-06-2366**. All documents to be filed must clearly reference these assigned docket numbers. Copies of all exceptions, briefs and replies must be served promptly on the State Office of Administrative Hearings and all parties. Certification of service to the above parties and an **original and eleven copies** shall be furnished to the Chief Clerk of the Commission. Failure to provide copies may be grounds for withholding consideration of the pleadings.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen J. Pacey".

Stephen J. Pacey  
Administrative Law Judge

SJP/ed  
Enclosures

xc: Parties (Service List)- VIA HAND DELIVERY OR REGULAR MAIL

**STATE OFFICE OF ADMINISTRATIVE HEARINGS**

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**SERVICE LIST**

**AGENCY:** Environmental Quality, Texas Commission on (TCEQ)  
**STYLE/CASE:** AL JABOUR / RIVERS COUNTRY VILLAS AND RV PARK  
**SOAH DOCKET NUMBER:** 582-06-2366  
**REFERRING AGENCY CASE:** 2005-1177-PSW-E

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**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**ADMINISTRATIVE LAW JUDGE  
ALJ STEPHEN J. PACEY**

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**REPRESENTATIVE / ADDRESS**

**PARTIES**

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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AL JABOUR  
D/B/A RIVERS COUNTY VILLAS & RV PARK  
3602 RIVERS ROAD  
MANVEL, TX 77578

AL JABOUR

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xc: Docket Clerk, State Office of Administrative Hearings

DOCKET NO. 582-06-2366  
TCEQ DOCKET NO. 2005-1177-PWS-E

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IN THE MATTER OF AN § BEFORE THE STATE OFFICE  
ENFORCEMENT ACTION §  
AGAINST AL JABOUR DBA RIVERS § OF  
COUNTRY VILLAS AND RV PARK §  
RN101262673 § ADMINISTRATIVE HEARINGS

CHIEF CLERKS OFFICE

## PROPOSAL FOR DECISION

### I. INTRODUCTION

On October 19, 2006, the Executive Director of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") filed with the Commission his second amended report and petition recommending the assessment of an administrative penalties totaling \$2,300.00 against Al Jabour and Rivers Country Villas and RV Park (Respondent), for alleged violations of 30 TEX. ADMIN. CODE (TAC) §§ 290.109(c)(2)(A)(i), (c)(2)(F), (c)(3)(A)(ii), and (f)(2); and 290.122(c)(2)(B); and TEX. HEALTH & SAFETY CODE §341.033(d). The Executive Director (ED) did not recommend corrective measures.

The ED alleged that Respondent violated these statutory and rule provisions by failing to conduct routine bacteriological monitoring of the water supply during the months of February, August, and September 2003 and May 2004, and by failing to provide public notification of the failure to conduct routine bacteriological monitoring during the month of May 2004; failing to collect samples within 24 hours of being notified of a total coliform-positive result on a routine sample during the month of May 2003; failing to collect at least five routine bacteriological samples following total coliform-positive results the preceding month during the months of June 2003 and February 2004, and failing to provide public notice thereof in February 2004; and exceeding the maximum contaminant level for total coliform bacteria and failing to provide public notice thereof in January 2004.

## II. RECOMMENDATION

After considering the evidence and argument presented at hearing, the Administrative Law Judge ("ALJ") recommends that the Respondent be found liable for the evidentiary violations and be assessed a penalty of \$2,300, as sought by the ED.

## III. PROCEDURAL HISTORY

On May 18, 2006, an enforcement action based on the ED's preliminary report and petition (EDPRP) was referred to the State Office of Administrative Hearings ("SOAH") for contested-case proceedings. On May 31, 2006, the first amended ED's first amended report and petition (EDFARP) was filed with SOAH.

A preliminary hearing in the matter was held on June 15, 2006. A schedule for discovery and evidentiary hearing was issued, setting the hearing on the merits for October 16, 2006. On October 9, 2006, the ED filed an unopposed Motion for Continuance, which was granted on October 13, 2006, and the hearing was continued until November 6, 2006, at 9:00 a.m. On October 19, 2006, the ED filed the ED's second amended report and petition (EDSARP). On October 24, 2006, Respondent filed a motion to change the time of the hearing from 9:00 a.m. to 1:00 p.m. The motion was verbally granted and CONFIRMED in writing on November 2, 2006.

On November 6, 2006, Respondent was not present at the time of the hearing. The ALJ, Stephen J. Pacey, waited until 1:20 and called the hearing to order. At that time, the ED moved for a Default. The ALJ verbally granted the motion and said that proposal for decision would be written recommending that the commission grant a Default Judgment. At 2:00 p.m., Respondent appeared at the SOAH's offices. The ALJ convened a telephone hearing, the Respondent moved to vacate the default. The ED did not object; therefore, the ALJ vacated the default and continued the hearing on

the merits to December 12, 2006. On December 12, 2006, an evidentiary hearing was held, and the record closed on that day before Stephen J. Pacey.

The ALJ designated the following as parties to the proceedings: the Respondent, (represented at hearing by Al Jabour); the ED (represented by Robert Mosely, Staff Attorney); and the Commission's Office of Public Interest Counsel (which did not participate in the proceedings).

#### IV. BACKGROUND

On the date of the alleged violations, Respondent owned and operated a recreation area and RV park located at 3602 Rivers Road, Manvel, Brazoria County, Texas (the Facility). The Facility has 23 service connections and serves at least 25 people per day for at least 60 days a year. As such the Facility is a public water system.<sup>1</sup>

A record review of Respondent's Operations in 2003 and 2004 was conducted on June 1, 2004, by TCEQ environmental investigator Sally Paramo. This resulted in the ED filing with the Commission's Chief Clerk on February 21, 2006, the EDPRP, which recommended that the Commission enter an enforcement order assessing an administrative penalty of \$2,300.00 against Respondent. Respondent replied to the allegations on March 13, 2006. Subsequent to Respondent's reply the ED filed the EDFARP with the Chief Clerk of TCEQ on May 10, 2006, and on October 19, 2006, the ED filed the EDSARP with the Chief Clerk of TCEQ. All of the reports and petitions requested a \$2,300.00 administrative penalty.

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<sup>1</sup> 30 TAC § 290.38(47).

## V. EVIDENCE AND ARGUMENT

### A. Executive Director

#### 1. Specific Violations

##### a. Bacteriological Monitoring

Ms. Paramo testified, among other things, that Respondent failed to conduct routine monitoring for bacteria in the water supply during the months of February, August, and September 2003 and May 2004. Ms. Paramo also reported that Respondent did not provide public notification of the failure in May 2004.

The ED contended that Respondent's failure in this regard violated TEX. HEALTH & SAFETY CODE §341.033(d) and 30 TAC §§ 290.109(c)(2)(A)(i) and 290.122(c)(2)(b). 30 TAC § 290.109(c)(2)(A)(i) provides

(2) Routine microbial sampling frequency. Public water systems must sample for microbiological contaminants at the following frequency.

(A) Community and noncommunity public water systems must collect routine bacteriological samples at a frequency based on the population served by the system:

(i) the population for noncommunity systems will be based on the maximum number of persons served on any given day during the month;

A table then sets the minimum frequency as one sample per month if the population is one to 1,000.<sup>2</sup>

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<sup>2</sup> 30 TAC § 290.109(c)(A)(iii).

**b. Water Sampling**

Ms. Paramo also reported that Respondent failed to collect samples within 24 hours of a total coliform-positive result on a routine sample in May 2003.

The ED contended that Respondent's failure in this regard violated 30 TAC § 290.109(c)(3)(A)(ii), which provides:

(3) Repeat microbial monitoring requirements. Systems shall conduct repeat monitoring if one or more of the routine samples is found to contain coliform organisms.

(A) If a routine sample is total coliform-positive, the public water system must collect a set of repeat samples within 24 hours of being notified of the positive result, or as soon as possible if the local laboratory is closed.

(ii) A system which collects one routine sample per month must collect no fewer than four repeat samples for each total coliform-positive sample found.

**c. Five Routine Bacteriological Samples**

The record review revealed that Respondent failed to collect at least five routine bacteriological samples following total coliform-positive results the preceding month in June 2003 and February 2004, and failed to provide public notice thereof in February 2004.

The ED contended that Respondent's failure in this regard violated 30 TAC §§ 290.109(c)(2)(F) and 290.122(c)(2)(B). 30 TAC 290.109(c)(2)(F) provides:

If a system collecting fewer than five routine samples per month has one or more total coliform-positive samples and the executive director does not invalidate the sample(s) in accordance with subsection (c)(4) of this section, it must collect at least five routine samples during the next month the system provides water to the public.

**d. Maximum Contaminant Level**

The record review revealed that Respondent exceeded the Maximum Contaminant Level for total coliform bacteria and failed to provide public notification thereof in January 2004.

The ED contended that Respondent's failure in this regard violated 30 TAC §§ 290.109(f)(2) and 290.122(c)(2)(B). TAC §§ 290.109(f)(2) provides:

(2) A system that collects at least 40 bacteriological samples per month commits a nonacute MCL violation if more than 5.0 % of the samples collected during a month are total coliform-positive, but none of the initial or repeat samples are fecal coliform-positive or Escherichia coli-positive.

**2. Determination of Penalty Amounts**

Commission employee Rebecca Clausewitz calculated the penalty amounts for the four alleged violations. Ms. Clausewitz is employed at TCEQ as an Enforcement Coordinator. Her job duties include reviewing violations and calculating recommended penalty amounts and making technical recommendations to ensure that facilities are operated according to applicable statutes and rules. Ms. Clausewitz based her penalty recommendation on the Commission's September 2002 penalty policy (Penalty Policy),<sup>3</sup> which was in effect at the time of the alleged violations.

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<sup>3</sup> ED Ex. 10.

On four occasions, February, August, and September of 2003 and May of 2004, Respondent allegedly failed to conduct routine bacteriological monitoring of the water supply and failed to provide notification of that failure in May 2004. Ms. Clausewitz determined a "Base Penalty Subtotal" of \$1,000 under the "Environmental, Property and Human Health Matrix" of the Commission's "Penalty Calculation Worksheet (PCW)" for a "major" violation and "potential" release. The Penalty Policy required the \$1,000 base penalty<sup>4</sup> to be multiplied by 25%, which is the allotted percentage in the Penalty Policy for a major/potential violation. This resulted in a \$750 adjustment, which left a \$250 base penalty. She multiplied the \$250 Base Penalty Subtotal times 4, which is the "Number of Violation Events." This resulted in a \$1,000 recommended penalty. Ms. Clausewitz then subtracted the 25% good faith effort to comply from the 40% enhancement<sup>5</sup> and multiplied the remaining 15% times \$1,00. Adding these two together resulted in a \$1,150 total recommended penalty.

In the month May 2003, Respondent allegedly failed to collect repeat samples within 24 hours of being notified of a total coli-positive result on a routine sample. Ms. Clausewitz determined a "Base Penalty Subtotal" of \$1,000 under the "Environmental, Property and Human Health Matrix" of the Commission's "Penalty Calculation Worksheet (PCW)" for a "major" violation and "potential" release. The Penalty Policy required the \$1,000 base penalty to be multiplied by 25%, which is the allotted percentage in the Penalty Policy for a major/potential violation. This resulted in a \$750 adjustment, which left a \$250 base penalty. She multiplied this \$250 Base Penalty Subtotal times 1, which is the "Number of Violation Events." This resulted in a recommended penalty of \$250. Ms. Clausewitz then subtracted the 25% good faith effort to comply from the 40% enhancement and multiplied the remaining 15% by \$250. Adding these two together resulted in a \$288 total recommended penalty.

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<sup>4</sup> Tex. Health & Safety Code §§ 341.049(a) authorizes the Commission to assess administrative penalties for the types of violations alleged in this case in an amount not to exceed \$1,000 for each day of violation.

<sup>5</sup> This number resulted from multiplying the number of Notices of Violation (8) times 5%.

Ms. Clausewitz indicated that in June 2003 and February 2004, Respondent failed to collect at least five routine bacteriological samples following total coliform-positive results the preceding month and failed to provide public notice thereof during the month of February 2004. Ms. Clausewitz determined a "Base Penalty Subtotal" of \$1,000 under the "Environmental, Property and Human Health Matrix" of the Commission's "Penalty Calculation Worksheet (PCW)" for a "major" violation and "potential" release. The Penalty Policy required the \$1,000 base penalty to be multiplied by 25%, which is the allotted percentage in the Penalty Policy for a major/potential violation. This resulted in a \$750 adjustment, which left a \$250 base penalty. She multiplied this \$250 Base Penalty Subtotal times 2, which is the "Number of Violation Events." This resulted in a recommended penalty of the remaining \$500. Ms. Clausewitz then subtracted the 25% good faith effort to comply from the 40% enhancement and multiplied the remaining 15% by \$500. Adding these two together resulted in a \$575 total recommended penalty.

Additionally, Ms. Clausewitz said that Respondent exceeded the maximum contaminant level for the total coliform and did not provide public notice of the total coliform exceedance in January 2004. Ms. Clausewitz determined a "Base Penalty Subtotal" of \$1,000 under the "Environmental, Property and Human Health Matrix" of the Commission's "Penalty Calculation Worksheet (PCW)" for a "major" violation and "potential" release. The Penalty Policy required the \$1,000 base penalty to be multiplied by 25%, which is the allotted percentage in the Penalty Policy for a major/potential violation. This resulted in a \$750 adjustment, which left a \$250 base penalty. She multiplied this \$250 Base Penalty Subtotal times 1, which is the "Number of Violation Events." This resulted in a recommended penalty of the remaining \$250. Ms. Clausewitz then subtracted the 25% good faith effort to comply from the 40% enhancement and multiplied the remaining 15% by \$250. Adding these two together resulted in a \$288 total recommended penalty.

The \$2,300 total penalty amount was determined by adding the separate violation base penalty amounts.

Ms. Clausewitz testified that there was no economic benefit adjustment because the economic benefits must exceed the \$15,000 minimum for an enhancement to be applied. She said the penalty calculation is consistent with the Penalty Policy, the need to deter future violations, and is appropriate considering the Respondent's compliance history. She maintained the total recommended penalty is consistent with amounts administered for similar violations.

**B. Respondent**

Respondent made three basic assertions in response to the allegations. First, coliform does not come from the water. It comes from the faucets that are exposed to the air and bacteria. He maintained that he could not keep the twenty-three faucets coliform free at all times.

Second, Respondent said that he attempted to deal in good faith with the Commission. He said that he collected the samples and talked to TCEQ trying to get help and advice. Respondent said he contacted Sally Paramo, who is TCEQ's witness, numerous times trying to understand the regulations and guidelines.

And third, Respondent claimed that before TCEQ assessed a penalty it should tell entities what is being violated and how it may be resolved. He said that he has tried in vain to follow the rules and regulation. Respondent mentioned that since he purchased the property along with his house, he has made no money on the system.

**C. Analysis and Conclusion**

The ALJ concludes that the Executive Director proved its allegations against Respondent. The evidence showed that the Respondent owned the Facility at the time of the alleged violations; the violations did occur; and the penalty the Executive Director proposed was appropriate under and consistent with the Penalty Policy in effect at the time of the violations.

After a review of the record and for the reasons given, the ALJ recommends that the Commission find the Respondent liable for the violation of regulatory standards asserted by the ED and, absent an exercise of discretion to mitigate sanctions, assess a penalty of \$2,300 for this violation, as recommended by the ED. A draft order incorporating these recommendations is attached to this Proposal for Decision.

SIGNED February 12, 2007.

  
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STEPHEN J. PACEY  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER REQUIRING PAYMENT OF ADMINISTRATIVE PENALTIES  
by AL JABOUR DBA RIVERS COUNTRY VILLAS AND RV PARK  
TCEQ Docket No. 2005-1177-PWS-E  
SOAH Docket No. 582-06-2366**

On \_\_\_\_\_, 2007, the Texas Commission on Environmental Quality (Commission) considered the Executive Director (ED)'s Second Amended Report and Petition (EDSARP) recommending that the Commission enter an order assessing administrative penalties against Al Jabour dba Rivers Country Villas and RV Park (Respondent), pursuant to TEX. HEALTH & SAFETY CODE (Health and Safety Code ch. 341, and the rules of the Commission. A Proposal for Decision on the report and petition was presented by Stephen J. Pacey, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH).

After considering the ALJ's Proposal for Decision and the evidence and arguments presented, the Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. At the time of the violations alleged in the EDSARP, Respondent owned and operated a recreational area and RV Park located at 3602 Rivers Road, Manvel, Brazoria County, Texas (Facility).

2. The Facility has 23 service connections and serves at least 25 people per day for at least 60 days per year. As such the Facility is a public water system
3. On February 21, 2006, the ED filed the Executive Director's Preliminary Report and Petition with the Commission, seeking assessment of administrative penalties against Respondent.
4. Respondent replied to the allegations on March 2006, and requested a hearing.
5. On May 10, 2006, the ED filed the EDFARP with the Commission, seeking assessment of administrative penalties against Respondent.
6. On October 19, 2006, the ED filed the EDSARP with the Commission, seeking assessment of administrative penalties against Respondent
7. The EDSARP included a statement of the allegations and applicable laws and rules, recommendations for a penalty, and a statement of Respondent's right to a hearing on the occurrence of the violations and appropriate penalties.
8. On May 10, 2006, notice and a copy of the EDFARP were mailed to Respondent by certified mail, return receipt requested, and by first class mail at Respondent's last known address.
9. On May 25, 2006, the Chief Clerk of the Commission provided notice by certified mail to Respondent concerning the preliminary hearing scheduled in this docket before SOAH.
10. The parties appeared at a preliminary hearing, held on June 15, 2006, and submitted a proposed scheduling order that included a request for an evidentiary hearing on October 16, 2006.
11. The parties' proposed scheduling order was adopted in the ALJ's Order No. 1, dated July 5, 2006, and sent to the parties.

12. After two continuances the evidentiary hearing was conducted on December 12, 2006, in Austin, Texas. The ED and Respondent appeared and presented evidence and argument.
13. During a records review conducted on June 1, 2004, a TCEQ central office investigator documented that Respondent:
  - a. failed to conduct routine bacteriological monitoring of the water supply during the months of February, August, and September 2003 and May 2004, and failed to provide public notification of the failure to conduct routine bacteriological monitoring during the month of May 2004;
  - b. failed to collect samples within 24 hours of being notified of a total coliform-positive result on a routine sample during the month of May 2003;
  - c. failed to collect at least five routine bacteriological samples following total coliform-positive results the preceding month during the months of June 2003 and February 2004, and failed to provide public notice thereof in February 2004; and
  - d. exceeded the maximum contaminant level for total coliform bacteria and failed to provide public notice thereof in January 2004.
14. The Commission's 2002 Penalty Policy applies to the violations alleged.
15. The following penalties for the alleged violations are in accordance and consistent with the Commission's 2002 Penalty Policy:
  - a. For the matter stated in Finding of Fact No. 13a, \$1,150.00.
  - b. For the matter stated in Finding of Fact No. 13b, \$288.00.
  - c. For the matter stated in Finding of Fact No. 13c, \$575.00.
  - d. For the matter stated in Finding of Fact No. 13d, \$288.00.
16. In addition to other considerations, in making its penalty recommendation, Staff took into account the nature, circumstances, extent, duration, and gravity of the prohibited acts; the

need to deter future violations; and the amounts that have been assessed for similar violations.

17. Staff's determination as described in Findings of Fact Nos. 13 and 15 is in accordance and consistent with the Commission's 2002 Penalty Policy.
18. Respondent did not present financial documents showing his inability to pay an administrative penalty.
17. The ED did not request that Respondent take corrective action and did not tender any evidence applicable to any appropriate corrective action.

#### **CONCLUSIONS OF LAW**

1. The public hearing in this proceeding was properly held under the authority of and in accordance with TEX. WATER CODE (Water Code), chs. 5 and 7, and Health and Safety Code § 341,049 and applicable Commission rules.
2. The Commission has jurisdiction and authority to consider the EDSARP, to determine whether the alleged violations occurred, and to assess administrative penalties for violations, pursuant to Water Code chs. 5 and 7 Health and Safety Code § 341.049.
3. SOAH has jurisdiction over matters related to the hearing in this action, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to Chapter 2003 of the Texas Government Code.

4. Based upon the above Findings of Fact, Respondent was properly notified of the EDSARP, and the opportunity to request a hearing on the alleged violations and recommended administrative penalty.
5. Based upon the above Findings of Fact, Respondent was properly notified of the public hearing on the alleged violation and proposed penalty, in accordance with 30 TAC §§ 1.12 and 80.6(b)(3), TEX. GOV'T CODE §§ 2001.051 and 2001.052.
6. Based upon the above Findings of Fact, Respondent violated 30 TAC §§ 290.109(c)(2)(A)(I), (c)(2)(F), (c)(3)(A)(ii), and (f)(2); and 290.122(c)(2)(B); and Health and Safety Code §341.033(d).
7. The provisions of Health and Safety Code § 341.049 authorize the Commission to assess administrative penalties for violations of the type addressed in this case in an amount not to exceed \$1,000.00 for each day of violation.
8. In calculating the penalties for violations by the Respondent, the ED appropriately applied the Commission's 2002 Penalty Policy and correctly classified Respondent's violations under that Penalty Policy's Environmental/Property and Human Health and Programmatic Matrices.
9. Based upon the above Findings of Fact and Conclusions of Law, Respondent should be assessed an administrative penalty in the amount of \$2,300.00.

**NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:**

1. Respondent is assessed an administrative penalty in the amount of \$2,300.00 for the violation of the Commission's rules, and the Health and Safety Code found above.
2. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action.
3. The Commission shall not be restricted in any manner from requiring corrective actions or penalties for any other violations that are not raised here.
4. All checks submitted to pay the penalty imposed by this Order shall be made out to "The Texas Commission on Environmental Quality."
5. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Al Jabour d/b/a Rivers Country Villas and RV Park, Docket No. 2005-1177-PWS-E to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

6. All relief not expressly granted in this Order is denied.
7. The Executive Director may grant an extension of any deadline in this 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.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with the terms or conditions in this Order.
9. The Chief Clerk shall provide a copy of this Order to each of the parties.
10. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TAC § 70.106(d) and 30 TEX. GOV'T. CODE ANN. § 2001.144.
11. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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Kathleen Hartnett White, Chairman  
For the Commission