

July 6, 2007

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

**Re: SOAH Docket No. 582-07-0105; TCEQ Docket No.2005-2018-MWD-E;
Executive Director of the Texas Commission on Environmental Quality v. Clear
Lake City Water Authority d/b/a Robert Savely Water Reclamation Facility**

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 July 26, 2007. Any replies to exceptions or briefs must be filed in the same manner no later than August 6, 2007.

This matter has been designated **TCEQ Docket No. 2005-2018-MWD-E; SOAH Docket No. 582-07-0105**. 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,

Carol S. Birch
Administrative Law Judge

CSB/ed
Enclosures
cc: Mailing List

**SOAH DOCKET NO. 582-07-0105
TCEQ DOCKET NO. 2005-2018-MWD-E**

EXECUTIVE DIRECTOR OF THE	§	BEFORE THE STATE OFFICE
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY	§	
V.	§	OF
	§	
CLEAR LAKE CITY WATER	§	
AUTHORITY DBA ROBERT T.	§	
SAVELY WATER RECLAMATION	§	
FACILITY	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) seeks to assess \$6,800 in administrative penalties against and require certain corrective action by Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility (Respondent). The ED alleges that Respondent violated the Texas Water Code, the Commission’s rules, and terms of TPDES Permit No. WQ0010539001 (the Permit) in regard to effluent limitations for its wastewater treatment facility. Respondent admits that the violations occurred, but disputes the appropriateness of the proposed penalty. Based on the evidence presented at hearing, the Administrative Law Judge (ALJ) recommends that the Commission consider assessing a lesser penalty against Respondent based on the impossibility of compliance, and that a requirement for corrective action be delayed.

I. BACKGROUND AND PROCEDURAL HISTORY

During all times relevant to this case, Respondent owned and operated a wastewater treatment facility located at 14210 Middlebrook Drive (the Facility), near the city of Clear Lake in Harris County, Texas.

Pursuant to the Permit, Respondent is allowed to discharge wastewater effluent at a daily average rate not to exceed 0.0089 milligrams per liter (mg/L) of total copper. A routine annual

review by Commission staff of Respondent's Discharge Monitoring Reports (DMRs) revealed that the Facility had exceeded the permitted effluent limit for copper in March and July 2005, by discharging 0.011 mg/L and 0.012 mg/L, respectively.

On April 6, 2006, the Executive Director filed a preliminary report and petition (EDPRP), in accordance with TEX. WATER CODE § 7.054, alleging that Respondent had violated the Permit, TEX. WATER CODE § 26.121(a), and 30 TEX. ADMIN. CODE § 305.125(1). The EDPRP requests a \$6,800 administrative penalty, and, as corrective action, that Respondent be required to submit written certification of current compliance with the Permit's effluent limits.

On September 11, 2006, the Commission referred this case to the State Office of Administrative Hearings (SOAH). The parties waived their appearance at the October 12, 2006 preliminary hearing and filed a Joint Proposed Scheduling Order. The hearing on the merits convened on March 15, 2007, before ALJ Carol S. Birch at SOAH's hearing facility in Austin, Texas. The ED was represented by Lena Roberts, and Respondent was represented by William Schweinle. Although the hearing adjourned the same day, the record remained open for the submission of written closing arguments. The deadlines for such submissions were subsequently extended at the request of the parties, and the record closed on May 7, 2007, after the ALJ received Respondent's reply brief.

II. LEGAL STANDARD

Under TEX. WATER CODE § 7.051, the Commission is authorized to assess an administrative penalty against a person who violates a statute within the Commission's jurisdiction, or a rule

adopted or a permit issued thereunder. The penalty in this case may not exceed \$10,000 per day of violation.¹ Additionally, the Commission may order the violator to take corrective action.²

During the hearing on the merits, the parties stipulated to certain of the allegations contained in the EDPRP.³ Because Respondent admits that the two violations occurred as alleged by the ED, the only issues to be resolved are the reasonableness of the proposed penalty and corrective action.

In determining the amount of an administrative penalty, TEX. WATER CODE § 7.053 requires the Commission to consider several factors, including:

- The nature, circumstances, extent, duration, and gravity of the prohibited act, with special emphasis on the impairment of existing water rights or the hazard or potential hazard created to the health or safety of the public;
- the impact of the violation on a receiving stream; the instream uses, water quality, aquatic and wildlife habitat or beneficial freshwater inflows to bays or estuaries;
- the history and extent of previous violations by the violator;
- the violator's degree of culpability, good faith efforts to comply, and economic benefit gained through the violation;
- the amount necessary to deter future violations; and
- any other factors that justice may require.

The Commission has adopted a Penalty Policy (the Policy) setting forth its method for the computation and assessment of administrative penalties, effective September 1, 2002.

¹ TEX. WATER CODE § 7.052.

² TEX. WATER CODE § 7.053.

³ Because the parties' stipulations include factual matters mixed with legal conclusions, the ALJ has revised and incorporated them in the appropriate sections of the proposed Order attached to the Proposal for Decision.

III. DISCUSSION

The ED maintains that the proposed penalty was calculated correctly, and that it is appropriate under the facts in this case. Respondent essentially argues that the penalty calculation does not take into account Respondent's good faith efforts to comply, nor the lack of any demonstrated harm caused by the violations.

A. Evidence

The ED called two witnesses: Merrilee Hupp, in its direct case, and Michael Pheil, on rebuttal. Respondent called three witnesses: James Byrd, Eloy Mendoza, and Christina Henderson. Both parties offered a number of exhibits in support of their respective cases.

Merrilee Hupp: Ms. Hupp is employed by the TCEQ as an enforcement coordinator. She testified about the calculation of the recommended administrative penalty. According to Ms. Hupp, she prepared the penalty calculation worksheet, and all of the required statutory factors were considered in determining the amount to be assessed. She stated that each violation in this case constituted a quarterly event under the Policy, and each was classified under the Environmental/Property and Human Health Matrix as an "actual release" threatening "minor harm." Ms. Hupp explained that Respondent's failure to control the effluents from the Facility resulted in an insignificant amount of pollutants being discharged. Minor harm is the lowest level of harm assignable under the Policy, and it includes cases, such as this one, where there is no observable impact. Ms. Hupp testified that, because permit limits had been exceeded, she had to assume when calculating the penalty that there was a potential for harm to the receiving stream.

Because the violations were "actual minor," and because Respondent is classified as a major facility, Ms. Hupp explained, she only assessed 25 percent of the maximum base penalty amount of

\$10,000, resulting in a \$7,500 reduction in the base penalty. The \$2,500 base penalty subtotal was then multiplied by the two quarterly events, resulting in a \$5,000 total base penalty.

Ms. Hupp then assessed a 36 percent enhancement of the total base penalty based on Respondent's compliance history: six self-reported notices of violation (NOVs) with the same or similar violations, and three other Commission-issued NOVs without same or similar violations. Pursuant to the Policy, the base penalty is enhanced by five percent for each NOV with same or similar violations and by two percent for each NOV without same or similar violations. The additional 36 percent, or \$1,800, brought the total recommended penalty to \$6,800. Ms. Hupp stated that this amount and the proposed corrective action, which essentially requires proof of current compliance with the Permit limits, are consistent with the Policy.

Ms. Hupp further testified that she did not factor in any credit for good faith efforts because Respondent had not achieved compliance when the calculation was done, as is required under the Policy. In addition, corrective actions are defined in the Permit as proactive efforts that eliminate or reduce effluent toxicity, and she had no information that Respondent had made any such efforts.

According to Ms. Hupp, consideration of "other factors as justice may require" seldom results in an adjustment to the penalty calculation. It includes situations where the ownership changes, or when a facility has very little control over the violations that occurred.

James Byrd: Mr. Byrd is currently Respondent's general manager and was the Facility's wastewater superintendent at the time of the violations. He holds a Class A wastewater license issued by the Commission. He testified that he contacted the TCEQ in April 2005, after learning that the Facility had exceeded the Permit limit for total copper. He stated that the March 2005 violation was the first time the Facility exceeded the Permit's discharge limitation for copper. According to Mr. Byrd, the Facility took copper samples from every lift station throughout the system after the

first violation was reported in an attempt to identify the source of the problem, but was unable to pinpoint any particular line in the system, and, therefore, unable to take any corrective measures.

Mr. Byrd's stated purpose in contacting the TCEQ was to determine what steps he should take to avoid future problems, in light of the fact that the Facility does not have heavy metal treatment capability to comply with the copper limits in the Permit. He further testified that, to his knowledge, no sewage treatment facility of comparable size has such capability because it is cost prohibitive. He also stated that he does not know how the limits were established for the Permit.

According to Mr. Byrd, the TCEQ staff advised him that it would be necessary to conduct a water-effect ratio (WER) study to determine the effect, if any, of the copper levels on the receiving stream, with the goal of getting the Permit limit raised. Mr. Byrd described the considerable efforts the Facility made to obtain the study in a timely manner, and explained that those efforts were hampered by the necessary involvement of the Environmental Protection Agency (EPA) and the TCEQ, both of which had to approve the study parameters in advance. Approval for the two-part study was finally obtained in January 2007. Two months later, at the time of hearing in this matter, the first phase of the study had been completed and the second phase was underway. Because the study was not yet complete, the Facility was still unable to request a variance in its Permit limit for copper.

Eloy Mendoza: Mr. Mendoza has been the Facility's wastewater superintendent since late 2005, and he corroborated much of Mr. Byrd's testimony. Mr. Mendoza, who also holds a Class A wastewater license, was actively involved in the process to obtain the WER study from the time the first violation was discovered. He stated that he knows of no comparable wastewater treatment facility that has heavy metal treatment capabilities. Mr. Mendoza further testified that the Facility had done everything within its power to address the issue of exceeding Permit limits for copper.

Christina Henderson: Ms. Henderson is employed as the quality assurance manager for BioAquatics Testing, the lab retained by the Facility to conduct the WER study. She is the project manager for the study. Ms. Henderson described, generally, the protocols for the study and stated that, because copper is such a wide-spread problem, a streamlined WER procedure has been established specifically for copper discharges. She explained that the procedure requires two rounds of testing spaced at least 30 days apart. She also testified that the field work and the bio-monitoring portions of the study had been completed, leaving only completion of the analysis to finalize the results. Ms. Henderson stated that the testing for copper toxicity was done on the aquatic species in the receiving stream that is most susceptible to copper.

Michael Pheil: Mr. Pheil is a member of the TCEQ Water Quality Standards Team. He testified as a rebuttal witness for the ED regarding the permit application process and how effluent limitations are established. Mr. Pheil stated that during the application process, permittees perform effluent screenings to determine which pollutants are present in their effluent. If a particular pollutant is detected, the permit will contain either a monitoring requirement or a limit for that pollutant. A limit will be imposed if the average concentration of samples is between 85-100 percent of the Texas Water Quality standard limit. Because the Permit in this case has a limitation on the permitted discharge of copper, Mr. Pheil believes that it is logical to conclude that copper was present in the Facility's effluent before the Permit became effective.

In addition, Mr. Pheil noted that the water quality criterion used to calculate permit limits is the same for all permittees. However, Mr. Pheil explained, the limits vary among permits because each limit depends on site-specific factors, such as the flow of the particular plant, the flow of the receiving stream, and whether it is fresh water or salt water.

According to Mr. Pheil, wastewater treatment facilities are initially given three years to identify and resolve any potential compliance issues – including exceedance of effluent parameters – before those parameters take effect. If a facility continues to have difficulty complying with one

or more parameter after the three-year-grace period, a variance can be requested, which allows the facility an additional three years in which to come into compliance or complete a site-specific WER study and, potentially, have the permit limits adjusted before they become effective. A completed study must be submitted to the TCEQ, which then determines whether the permittee has satisfactorily demonstrated that a change in its effluent parameters will not endanger or have an unacceptable adverse effect on aquatic life found in the receiving stream.

B. Argument and Analysis

Respondent asserts that the evidence in this case does not demonstrate an adverse impact on the receiving stream, or even a potential for harm. In addition, Respondent seems to suggest that, because the Permit's copper limits are well below the standard limits for both potable and non-potable water sources,⁴ the absence of actual or potential harm has been proven. For these reasons, Respondent argues, the ED did not establish a basis for any penalty to be assessed.

The ALJ is not persuaded by Respondent's argument. The ED is not required to conclusively establish either actual or potential harm. Although actual and potential harm are factors that must be considered in making the penalty calculation, the *violations* provide the basis for the assessment of a penalty in this case. Furthermore, the Policy's definition of a "minor release" includes quantities that result in no loss of water quality of the receiving stream.

Moreover, the evidence does not establish that the violations were so minimal that there was no potential for harm. The assumption that a potential for harm exists any time permit limits are exceeded is a reasonable one. A potential for harm underlies the establishment of permit limits in the first place. And, as the ED emphasizes, the Permit's copper limit was not set arbitrarily. Based upon Mr. Pheil's testimony, the potential for harm was presumably determined during the permitting

⁴ 1.3 mg/L and 00.36 mg/L, respectively.

process, based on factors specific to the Facility. Whether Respondent's copper limit is lower than necessary to protect human health or environmental receptors is an issue to be addressed in the context of a variance request, and that question has not yet been answered.

Respondent also argues that its good-faith efforts to obtain the WER study should be recognized because the evidence establishes the impossibility of compliance with the Permit's copper limit. The ED argues that Respondent's efforts in obtaining a permit variance cannot be construed to be a good-faith effort to comply with the Permit limit. Furthermore, the Policy requires actual compliance. The ALJ agrees with the ED to that extent. However, the ED's assertion that Respondent opted to undertake efforts to raise its copper limit rather than make an effort to reduce the amount of copper in its effluent is inaccurate. The testimony was clear and uncontradicted that Respondent initially took samples from every lift station in the system in an effort to identify the source of the problem and prevent future discharges in excess of the Permit limit.

It appears that the worksheet was prepared properly and in accordance with Commission's rules and policies. However, the ALJ believes that the Commission can consider the impossibility of compliance in this case to be one of those "other matters as justice may require" for purposes of reducing or eliminating the penalty. The evidence establishes that there were no reasonable corrective measures that Respondent could have taken to prevent the discharges in question, which were only slightly higher than the Permit limit and well below the standard limits for potable and non-potable water sources. Furthermore, Respondent remains unable to prevent future discharges above the current copper limit. And as testified to by Ms. Hupp, "other matters as justice may require" includes a situation where a facility has little control over the violations.

IV. ADDITIONAL FACTS

In addition to the facts addressed in the preceding discussion, the Findings of Fact contained in the attached proposed Order include other facts established during the proceeding that are

necessary to show compliance with regulatory requirements applicable to these proceedings. These additional facts are incorporated by reference into this Proposal for Decision.

V. CONCLUSION

Respondent admitted that the violations occurred, and the ED has proven that the proposed penalty was properly calculated under the Commission's Penalty Policy. However, the ALJ is somewhat troubled about the outcome sought by the ED. The ALJ suggests that the Commissioners consider an exercise of discretion to mitigate the penalty calculated by the ED, due to the impossibility of compliance by Respondent.

After a review of the record and for the reasons given, the ALJ recommends that the Commission find Respondent liable for the violations of regulatory standards asserted by the ED and, absent an exercise of discretion to mitigate sanctions, assess a penalty of \$6,800 for the violations as recommended by the ED. The ALJ also recommends that the corrective action sought by the ED be delayed until Respondent has had a reasonable opportunity to complete its WER study and have its copper limit reviewed by the Commission. A draft order incorporating these recommendations is attached to this Proposal for Decision.

SIGNED July 6, 2007.

CAROL S. BIRCH
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER Requiring Payment of Administrative Penalties
and Requiring Corrective Action
by Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility
TCEQ Docket No. 2005-2018-MWD-E
SOAH Docket No. 582-07-0105

On _____, 2007, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the Executive Director's Preliminary Report and Petition (EDPRP) recommending that the Commission enter an order assessing administrative penalties against and requiring corrective action by Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility (Respondent). A Proposal for Decision (PFD) was presented by Carol S. Birch, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), who conducted a public hearing concerning the EDPRP on March 15, 2007, in Austin, Texas.

The Executive Director, represented by Lena Roberts, appeared at the hearing. Respondent appeared, represented by William Schweinle. After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Respondent owns and operates a wastewater treatment facility located at 14210 Middlebrook Drive (the Facility), near the city of Clear Lake, Harris County, Texas.
2. TPDES Permit No. WQ0010539001 (the Permit) was issued to Respondent for the Facility on November 30, 2004.
3. Under the terms of the Permit, Respondent is allowed to discharge wastewater effluent at a daily average rate not to exceed 0.0089 milligrams per liter (mg/L) of total copper.
4. In March and July 2005, the Facility discharged effluent containing copper levels of 0.011 mg/L and 0.012 mg/L, respectively.
5. Respondent received notice of the alleged violations on or about December 4, 2005.
6. Respondent owned and operated the Facility at the time of the alleged violations.
7. On April 6, 2006, the Executive Director filed a preliminary report and petition (EDPRP), in accordance with TEX. WATER CODE § 7.054, alleging that by exceeding the effluent limitations in its Permit, Respondent had violated the Permit, TEX. WATER CODE § 26.121(a), and 30 TEX. ADMIN. CODE § 305.125(1).
8. Based on the penalty calculation worksheet attached to the EDPRP, the ED recommends that the Commission enter an order assessing a total administrative penalty of \$6,800.
9. On September 11, 2006, the Commission referred this case to the State Office of Administrative Hearings (SOAH).
10. The evidentiary hearing in this matter was conducted on March 15, 2007. The ED appeared through staff attorney Lena Roberts. Respondent appeared and was represented by William Schweinle.

11. The record closed on May 7, 2007, after the parties submitted written closing arguments.
12. No actual harm has been shown to have resulted from either of the violations.
13. Respondent attempted to take corrective action to prevent further violations, but was unable to determine the source of the pollutant.
14. Respondent cannot comply with the Permit's copper limit, because it does not have heavy metal treatment capability, and it is not economically feasible for the Facility to obtain such capability.
15. The violations were not intentional and Respondent was unable to prevent them from occurring.
16. The discharges were below standard levels for potable and non-potable water sources.
17. Respondent has had a water-effect ratio (WER) study done to determine whether the Permit's copper limit is lower than necessary to protect human health or environmental receptors.

II. CONCLUSIONS OF LAW

1. The violations alleged in the EDPRP are within the Commission's general jurisdiction pursuant to TEX. WATER CODE § 5.013 because they involve the state's water quality program.
2. Under TEX. WATER CODE ANN. § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Water Code or of the Texas Health and Safety Code within the Commission's jurisdiction or of any rule, order, or permit adopted or issued thereunder.

3. Under TEX. WATER CODE § 7.052, a penalty may not exceed \$10,000 per violation, per day for the violations alleged in this proceeding.
4. Additionally, the Commission may order the violator to take corrective action. TEX. WATER CODE § 7.073.
5. As required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE §§ 1.11 and 70.104, Respondent was notified of the EDPRP and of the opportunity to request a hearing on the alleged violations or the penalties or corrective actions proposed therein.
6. As required by TEX. GOV'T CODE § 2001.052; TEX. WATER CODE § 7.058; 1 TEX. ADMIN. CODE § 155.27; and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.25, 70.104, and 80.6, Respondent was notified of the hearing on the alleged violations and the proposed penalties.
7. SOAH has jurisdiction over matters related to the hearing in this matter, including the authority to issue a Proposal for Decision with Findings of Fact and Conclusions of Law, pursuant to TEX. GOV'T CODE ch. 2003.
8. By discharging wastewater effluent into the waters of the state in excess of the permitted effluent limitations, Respondent violated TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and the Permit (Interim Effluent Limitations and Monitoring Requirements 1).
9. In determining the amount of an administrative penalty, TEX. WATER CODE § 7.053 requires the Commission to consider several factors including:
 - a. Its impact or potential impact on public health and safety, natural resources and their uses, and other persons;
 - b. The nature, circumstances, extent, duration, and gravity of the prohibited act;
 - c. The history and extent of previous violations by the violator;

- d. The violator's degree of culpability, good faith, and economic benefit gained through the violation;
 - e. The amount necessary to deter future violations; and
 - f. Any other matters that justice may require.
10. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2002.
 11. Based on consideration of the above Findings of Fact, the factors set out in TEX. WATER CODE § 7.053, and the Commission's Penalty Policy, the Commission may exercise its discretion to reduce the administrative penalty assessed against Respondent.
 12. Because Respondent remains incapable of compliance with the Permit's copper limit, no corrective action should be required until Respondent has had a reasonable opportunity to complete its WER study and have its copper limit reviewed by the Commission.

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. An administrative penalty in the amount of \$_____ is assessed against and no corrective action is required by Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility.
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: Clear Lake City Water Authority dba Robert T. Savely Water Reclamation Facility, TCEQ Docket No. 2005-2018-MWD-E; Enforcement ID No. RN101440485” 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 other motions, requests for entry of specific Findings of Fact or Conclusions of Law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
7. The effective date of this Order is the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 80.273 and TEX. GOV’T CODE ANN. § 2001.144.
8. The provisions of this Order shall apply to and be binding upon Respondent.
9. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to 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.

10. 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 one or more of the terms or conditions in this Order.
11. As required by TEX. WATER CODE ANN. § 7.059, the Commission's Chief Clerk shall forward a copy of this Order to Respondent.
12. 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

Kathleen Hartnett White, Chairman
For the Commission