

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 39323
LIVE OAK RESORT, INC.
RN101269926
Docket No. 2013-1210-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

9751 Lone Star Road, Washington County

Type of Operation:

recreational resort with a public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: 2013-0866-WQ-E (at SOAH)
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: October 10, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$17,630

Total Paid to General Revenue: \$515

Total Due to General Revenue: \$17,115

Payment Plan: 35 payments of \$489 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – High
Site/RN – High

Major Source: No

Statutory Limit Adjustment: \$63 enhancement (PCW 2)

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Investigation Information

Complaint Date(s): January 23, 2013

Complaint Information: Alleged no changes/upgrades in the distribution system since last PWS inspection three years ago.

Date(s) of Investigation: February 6, 2013

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

Date(s) of NOE(s): June 5, 2013

LIVE OAK RESORT, INC.
RN101269926
Docket No. 2013-1210-PWS-E

Violation Information

1. Failed to provide a ground storage capacity of 35 gallons per connection [TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(ii); and TCEQ Agreed Order Docket No. 2010-0411-PWS-E, Ordering Provision No. 2.c.i.].
2. Failed to provide two or more service pumps which have a total capacity of 1.0 gpm per connection [TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(iii); and TCEQ Agreed Order Docket No. 2010-0411-PWS-E, Ordering Provision No. 2.c.ii.].
3. Failed to provide well completion data for Well Nos. 1 and 2 [30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2007-0644-PWS-E, Ordering Provision No. 2.b.iv.].
4. Failed to obtain a sanitary control easement for all land within 150 feet of Well Nos. 1 and 2 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2007-0644-PWS-E, Ordering Provision No. 2.b.ii.].
5. Failed to provide Facility records to Commission personnel at the time of the investigation [30 TEX. ADMIN. CODE § 290(46)(f)(2)].
6. Failed to calibrate the Facility's well meters at least once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].
7. Failed to enclose the wells with an intruder-resistant fence with a lockable gate or locked and ventilated well house [30 TEX. ADMIN. CODE § 290.41(c)(3)(O)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. On June 30, 2014, obtained Commission approval of an exception to the sanitary control easement requirement (Violation No. 4);
2. On September 27, 2013, provided a record of the ANSI/NSF standard 60 for direct additives (Violation No. 5);
3. On April 5, 2013, provided documentation indicating the well meters had been calibrated for Well Nos. 1 and 2 (Violation No. 6); and
4. On April 22, 2013, provided photographic documentation that the fences surrounding Well Nos. 1 and 2 have been modified to comply with the requirements for an intruder-resistant fence (Violation No. 7).

Technical Requirements:

1. Within 60 days, provide a copy of the well completion data for Well Nos. 1 and 2, including well material setting data, a geological log, sealing information, disinfection information, microbiological sample results, and a chemical analysis report (Violation No. 3).
2. Within 75 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 180 days:
 - a. Provide a ground storage capacity of 35 gallons per connection (Violation No. 1); and
 - b. Provide two or more service pumps which have a total capacity of 1.0 gpm per connection (Violation No. 2).
4. Within 190 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 3.a. and 3.b.

LIVE OAK RESORT, INC.
RN101269926
Docket No. 2013-1210-PWS-E

Litigation Information

Date Petition(s) Filed: April 15, 2014
Date Answer(s) Filed: May 8, 2014
SOAH Referral Date: June 9, 2014
Hearing Date(s):
Preliminary Hearing: July 17, 2014
Evidentiary Hearing: November 14, 2014 (scheduled)
Settlement Date: August 5, 2014

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363
TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division, (512) 239-2676
TCEQ Regional Contact: Richard Monreal, Waco Regional Office, (254) 751-0335
Respondent Contact: Larry Hilderbrand, President, LIVE OAK RESORT, INC., 9751 Lone Star Road, Washington, Texas 77880
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	3-Jun-2013	Screening	13-Jun-2013	EPA Due	
	PCW	21-Jun-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	LIVE OAK RESORT, INC.		
Reg. Ent. Ref. No.	RN101269926		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39323	No. of Violations	4
Docket No.	2013-1210-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$3,663	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$13,097	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 13-Jun-2013

Docket No. 2013-1210-PWS-E

Respondent LIVE OAK RESORT, INC.

Policy Revision 2 (September 2002)

Case ID No. 39323

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101269926

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with a denial of liability and a reduction for a high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date	13-Jun-2013	Docket No.	2013-1210-PWS-E	PCW
Respondent	LIVE OAK RESORT, INC.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39323			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101269926			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Lindsey			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.45(c)(1)(B)(ii), Tex. Health & Safety Code § 341.0315(c) and TCEQ Agreed Order Docket No. 2010-0411-PWS-E, Ordering Provision No. 2.c.i.

Violation Description Failed to provide a ground storage capacity of 35 gallons per connection. Specifically, with 127 service connections, the Respondent must provide a minimum total ground storage capacity of 4,445 gallons. However, it was noted that the Respondent does not provide any ground storage capacity which is a 100% deficiency.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes Failure to provide ground storage could result in persons served by the Facility being exposed to contaminants which would exceed levels protective of human health.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Thirty-one monthly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-0411-PWS-E, December 4, 2010, to the screening date, June 13, 2013.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Violation No. Public Water Supply
 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$9,557	4-Dec-2010	1-Aug-2014	3.66	\$117	\$2,332	\$2,449
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount to provide sufficient ground storage capacity at the Facility, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-0411-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance **\$9,557** **TOTAL** **\$2,449**

Screening Date	13-Jun-2013	Docket No.	2013-1210-PWS-E	PCW
Respondent	LIVE OAK RESORT, INC.			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	39323			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101269926			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Lindsey			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>	

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$2,000	4-Dec-2010	1-Aug-2014	3.66	\$24	\$488	\$512
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide sufficient service pump capacity at the Facility, calculated from the effective date of TCEQ Agreed Order Docket No. 2010-0411-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,000	TOTAL	\$512
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<p>Screening Date 13-Jun-2013 Respondent LIVE OAK RESORT, INC. Case ID No. 39323 Reg. Ent. Reference No. RN101269926 Media [Statute] Public Water Supply Enf. Coordinator Abigail Lindsey</p>	<p>Docket No. 2013-1210-PWS-E</p>	<p>PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p>
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Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2007-0644-PWS-E, Ordering Provision No. 2.b.iv.

Violation Description

Failed to provide well completion data for Well Nos. 1 and 2.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

		Harm			
Release		Major	Moderate	Minor	
Actual					Percent <input type="text" value="0%"/>
Potential					

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent <input type="text" value="10%"/>
		x			

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty

Two single events are recommended (one for each well).

Good Faith Efforts to Comply

Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Public Water Supply
Violation No. 3

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)	\$1,500	28-Jan-2008	1-Aug-2014	6.51	\$33	\$651	\$684
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount to obtain the required well completion data, calculated from the effective date of TCEQ Agreed Order Docket No. 2007-0644-PWS-E to the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$1,500	TOTAL	\$684
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Screening Date 13-Jun-2013	Docket No. 2013-1210-PWS-E	PCW
Respondent LIVE OAK RESORT, INC.		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 39323		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN101269926		
Media [Statute] Public Water Supply		
Enf. Coordinator Abigail Lindsey		

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2007-0644-PWS-E, Ordering Provision No. 2.b.ii.

Violation Description

Failed to obtain a sanitary control easement for all land within 150 feet of Well Nos. 1 and 2.

Base Penalty

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Failure to have sanitary control easement in place could allow activities causing contamination to occur in close proximity to the well, potentially exposing customers of the Facility to an insignificant amount of contaminants which would not exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

Two single events are recommended (one for each well).

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Violation No. Public Water Supply
 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40	28-Jan-2008	1-Jun-2014	6.35	\$1	\$17	\$18
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount to record sanitary control easement for the well (\$20 per well x 2 wells), calculated from the effective date of TCEQ Agreed Order Docket No. 2007-0644-PWS-E to the estimated date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$40 **TOTAL** \$18



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Jun-2013	Screening	13-Jun-2013	EPA Due	
	PCW	3-Oct-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	LIVE OAK RESORT, INC.		
Reg. Ent. Ref. No.	RN101269926		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39323	No. of Violations	3
Docket No.	2013-1210-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$130**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **10.0%** Enhancement **Subtotals 2, 3, & 7** **\$13**

Notes: Enhancement for one agreed order with a denial of liability and a reduction for a high performer classification.

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** **\$31**

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

Total EB Amounts **\$78**
 Approx. Cost of Compliance **\$207**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$112**

OTHER FACTORS AS JUSTICE MAY REQUIRE **67.0%** **Adjustment** **\$75**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance for Violation No. 2.

Final Penalty Amount **\$187**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$250**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$250**

Screening Date 13-Jun-2013

Docket No. 2013-1210-PWS-E

PCW

Respondent LIVE OAK RESORT, INC.

Policy Revision 3 (September 2011)

Case ID No. 39323

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101269926

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with a denial of liability and a reduction for a high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date	13-Jun-2013	Docket No.	2013-1210-PWS-E	PCW
Respondent	LIVE OAK RESORT, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	39323			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101269926			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Lindsey			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 290.46(f)(2)

Violation Description

Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, the following record was not available for review: the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") standard 60 for direct additives and/or ANSI/NSF standard 61 for indirect additives.

Base Penalty

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>

Percent

Matrix Notes

30% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	(mark with x)

Notes The Respondent returned to compliance on September 27, 2013.

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Violation No. Public Water Supply
 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	\$45	6-Feb-2013	27-Sep-2013	0.64	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to properly develop a record keeping system to maintain a record of the ANSI/NSF certification for disinfectant (\$45 x 1 record), calculated from the date of the investigation to 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	\$45	TOTAL	\$1
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Screening Date	13-Jun-2013	Docket No.	2013-1210-PWS-E	PCW
Respondent	LIVE OAK RESORT, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	39323			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101269926			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Lindsey			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$62	6-Feb-2010	5-Apr-2013	4.08	\$13	\$62	\$75
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meter (\$31 x 2 meters), calculated for the three years prior to the investigation date to the date of compliance.

Approx. Cost of Compliance \$62

TOTAL \$75

Screening Date	13-Jun-2013	Docket No.	2013-1210-PWS-E	PCW
Respondent	LIVE OAK RESORT, INC.			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	39323			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN101269926			
Media [Statute]	Public Water Supply			
Enf. Coordinator	Abigail Lindsey			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="3.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LIVE OAK RESORT, INC.
Case ID No. 39323
Reg. Ent. Reference No. RN101269926
Media Violation No. Public Water Supply
 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$100	6-Feb-2013	22-Apr-2013	0.21	\$0	\$1	\$1
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				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs The delayed cost includes the estimated amount necessary to provide the barbed wire for the fences at Well Nos. 1 and 2, calculated from the investigation date to 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

TOTAL

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.



Compliance History Report

PUBLISHED Compliance History Report for CN600699789, RN101269926, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600699789, LIVE OAK RESORT, INC. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN101269926, LIVE OAK RESORT **Classification:** HIGH **Rating:** 0.00

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 9751 LONE STAR RD, WASHINGTON COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

ID Number(s): **PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 2390050

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: June 20, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 20, 2008 to June 20, 2013

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

Name: Abigail Lindsey **Phone:** (512) 239-2576

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES 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:

- 1 Effective Date:** 12/04/2010 **ADMINORDER 2010-0411-PWS-E (1660 Order-Agreed Order With Denial)**
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)
- Description: Failure to notify the Commission prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)
- Description: Failure to equip the pressure tank air injection line with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(ii)
- Description: 5A THSC Chapter 341, SubChapter A 341.0315(c)
- Description: Failure to provide a ground storage capacity of 35 gallons per connection.
- Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(iii)
- Description: 5A THSC Chapter 341, SubChapter A 341.0315(c)
- Description: Failure to provide two or more service pumps which have a total capacity of 1.0 gpm per connection.

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LIVE OAK RESORT, INC.;
RN101269926**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-1210-PWS-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding LIVE OAK RESORT, INC. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Agreed Order to the Commission.

Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, the right to an evidentiary hearing, notice of an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates a public water system located at 9751 Lone Star Road in Washington County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 127 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 as defined in 30 TEX. ADMIN. CODE § 290.38(66).
2. During an investigation conducted on February 6, 2013, a TCEQ Waco Regional Office investigator documented that Respondent:
 - a. Failed to provide a ground storage capacity of 35 gallons per connection. Specifically, with 127 service connections, Respondent must provide a minimum total ground storage capacity of 4,445 gallons, however, Respondent does not provide any ground storage capacity;
 - b. Failed to provide two or more service pumps which have a total capacity of 1.0 gallon per minute ("gpm") per connection. Specifically, with 127 service connections, Respondent must provide a minimum total service pump capacity of 127 gpm. The Facility does not have any service pumps;
 - c. Failed to provide well completion data for Well Nos. 1 and 2;
 - d. Failed to obtain a sanitary control easement for all land within 150 feet of Well Nos. 1 and 2;

- e. Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, the American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") standard 60 for direct additives was not available for review;
 - f. Failed to calibrate the Facility's well meters at least once every three years; and
 - g. Failed to enclose the wells with an intruder-resistant fence with a lockable gate or locked and ventilated well house. Specifically, the fences surrounding Well Nos. 1 and 2 did not have the barbed wire at a 45 degree angle to the outside.
3. Respondent received notice of the violations on or about February 6, 2013 through the exit interview and on or about June 10, 2013.
 4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. On June 30, 2014, obtained Commission approval of an exception to the sanitary control easement requirement (Conclusion of Law No. 5).
 - b. On September 27, 2013, provided a record of the ANSI/NSF standard 60 for direct additives (Conclusion of Law No. 6);
 - c. On April 5, 2013, provided documentation indicating the well meters had been calibrated for Well Nos. 1 and 2 (Conclusion of Law No. 7); and
 - d. On April 22, 2013, provided photographic documentation that the fences surrounding Well Nos. 1 and 2 have been modified to comply with the requirements for an intruder-resistant fence (Conclusion of Law No. 8).

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide a ground storage capacity of 35 gallons per connection, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(ii); and TCEQ Agreed Order Docket No. 2010-0411-PWS-E, Ordering Provision No. 2.c.i.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide two or more service pumps which have a total capacity of 1.0 gpm per connection, in violation of TEX. HEALTH & SAFETY CODE § 341.0315(c); 30 TEX. ADMIN. CODE § 290.45(c)(1)(B)(iii); and TCEQ Agreed Order Docket No. 2010-0411-PWS-E, Ordering Provision No. 2.c.ii.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to provide well completion data for Well Nos. 1 and 2, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(3) and TCEQ Agreed Order Docket No. 2007-0644-PWS-E, Ordering Provision No. 2.b.iv.
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to obtain a sanitary control easement for all land within 150 feet of Well Nos. 1 and 2, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2007-0644-PWS-E, Ordering Provision No. 2.b.ii.
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to provide Facility records to Commission personnel at the time of the investigation, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2).

7. As evidenced by Finding of Fact No. 2.f., Respondent failed to calibrate the Facility's well meters at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
8. As evidenced by Finding of Fact No. 2.g., Respondent failed to enclose the wells with an intruder-resistant fence with a lockable gate or locked and ventilated well house, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(O).
9. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of seventeen thousand six hundred thirty dollars (\$17,630.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. Respondent paid five hundred fifteen dollars (\$515.00) of the administrative penalty. The remaining amount of seventeen thousand one hundred fifteen dollars (\$17,115.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred eighty-nine dollars (\$489.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 10, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: LIVE OAK RESORT, INC., Docket No. 2013-1210-PWS-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order, Respondent shall provide a copy of the well completion data for Well Nos. 1 and 2, including well material setting data, a geological log, sealing information, disinfection information, microbiological sample results, and a chemical analysis report, in accordance with 30 TEX. ADMIN. CODE § 290.46 (Conclusion of Law No. 4).

- b. Within 75 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provision No. 2.a.
- c. Within 180 days after the effective date of this Agreed Order, Respondent shall:
 - i. Provide a ground storage capacity of 35 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 2); and
 - ii. Provide two or more service pumps which have a total capacity of 1.0 gpm per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45 (Conclusion of Law No. 3).
- d. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.e., below, to demonstrate compliance with Ordering Provisions Nos. 2.c.i. and 2.c.ii.
- e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Section Manager, Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- 3. All relief not expressly granted in this Agreed Order is denied.
- 4. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 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 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.

6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute.
7. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



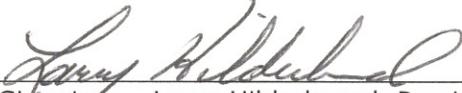
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of LIVE OAK RESORT, INC., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

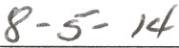
I also understand that failure to comply with the Ordering Provisions in this Agreed Order and/or failure to timely pay the penalty amount may result in:

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

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



Signature - Larry Hilderbrand, President
LIVE OAK RESORT, INC.



Date