

Executive Summary – Enforcement Matter – Case No. 55208
Sage-Monterey Oaks, Ltd.
RN102761855
Docket No. 2017-1455-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Monterey Oaks Corporate Park, 5700 South MoPac Expressway, Austin, Travis County

Type of Operation:

Business park

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: No

Texas Register Publication Date: February 2, 2018

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,407

Amount Deferred for Expedited Settlement: \$2,881

Total Paid to General Revenue: \$11,526

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major/Minor Source: Minor

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 21, 2017

Date(s) of NOE(s): September 22, 2017

Violation Information

1. Failed to conduct the required five year testing on the existing sewage collection system [30 TEX. ADMIN. CODE § 213.5(c)(3)(E)(i) and Edwards Aquifer Protection Program ID No. 11-98080402, Standard Conditions No. 10].

Executive Summary – Enforcement Matter – Case No. 55208
Sage-Monterey Oaks, Ltd.
RN102761855
Docket No. 2017-1455-EAQ-E

2. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activities over the Edwards Aquifer Recharge Zone. Specifically, Aboveground Storage Tanks ("ASTs") were installed by Building A and Building E at the Facility without approval of AST Facility Plans [30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following:

- a. On May 30, 2017, the Respondent's tenant, Texas Windstorm Insurance Agency, obtained approval of an AST Facility Plan for the AST installed by Building A.
- b. On October 17, 2017, conducted the required five year testing on the existing sewage collection system and had the results certified by a Texas Registered Professional Engineer.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days submit an application for approval of an Edwards Aquifer AST Facility Plan for Building E and associated application fees.
- b. Respond completely and adequately to all TCEQ requests for additional information concerning the AST Facility Plan for Building E within 30 days of such requests, or by any other deadline specified in writing.
- c. Within 120 days obtain approval of an AST Facility Plan for Building E at the Facility.
- d. Within 135 days submit written certification demonstrating compliance with c.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Farhaud Abbaszadeh, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-0779; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Peter Lamy, Manager, Sage-Monterey Oaks, Ltd., 1717 West 6th Street, Suite 400, Austin, Texas 78703

Amy Hurst, Senior Property Manager, Aquila Management Services, 8303 North Mopac Expressway, Suite A115, Austin, Texas 78759

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	25-Sep-2017	Screening	26-Sep-2017	EPA Due	
	PCW	27-Sep-2017				

RESPONDENT/FACILITY INFORMATION

Respondent	Sage-Monterey Oaks, Ltd.		
Reg. Ent. Ref. No.	RN102761855		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	55208	No. of Violations	3	
Docket No.	2017-1455-EAQ-E	Order Type	1660	
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Farhaud Abbaszadeh	
		EC's Team	Enforcement Team 1	
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Adjustment **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$312**

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

Total EB Amounts: \$6,071
Estimated Cost of Compliance: \$10,850
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,438**

OTHER FACTORS AS JUSTICE MAY REQUIRE **70.7%** Adjustment **\$5,969**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount **\$14,407**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$14,407**

DEFERRAL **20.0%** Reduction Adjustment **-\$2,881**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$11,526**

Screening Date 26-Sep-2017

Docket No. 2017-1455-EAQ-E

PCW

Respondent Sage-Monterey Oaks, Ltd.

Policy Revision 4 (April 2014)

Case ID No. 55208

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102761855

Media [Statute] Edwards Aquifer

Enf. Coordinator Farhaud Abbaszadeh

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 26-Sep-2017
Respondent Sage-Monterey Oaks, Ltd.
Case ID No. 55208
Reg. Ent. Reference No. RN102761855
Media [Statute] Edwards Aquifer
Enf. Coordinator Farhaud Abbaszadeh
Violation Number 1

Docket No. 2017-1455-EAQ-E

PCW

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

Rule Cite(s) 30 Tex. Admin. Code § 213.5(c)(3)(E)(i) and Edwards Aquifer Protection Program ID No. 11-98080402, Standard Conditions No. 10

Violation Description Failed to conduct the required five year testing on the existing sewage collection system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 1826 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended for the five year period preceding the investigation date (July 21, 2017) that the testing was not completed.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,027

Violation Final Penalty Total \$6,403

This violation Final Assessed Penalty (adjusted for limits) \$6,403

Economic Benefit Worksheet

Respondent Sage-Monterey Oaks, Ltd.
Case ID No. 55208
Reg. Ent. Reference No. RN102761855
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$4,775	21-Jul-2017	17-Oct-2017	0.24	\$58	n/a	\$58

Notes for DELAYED costs

Estimated cost to test the existing sewage collection system and have the results certified by a Texas Registered Professional Engineer. Date required is the investigation date. Final date is the date of compliance.

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$4,775	21-Jul-2012	21-Jul-2017	5.00	\$1,194	\$4,775	\$5,969
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to test the existing sewage collection system and have the results certified by a Texas Registered Professional Engineer. Date required is five years preceding the investigation date. Final date is the investigation date.

Approx. Cost of Compliance \$9,550

TOTAL \$6,027

Screening Date 26-Sep-2017
Respondent Sage-Monterey Oaks, Ltd.
Case ID No. 55208
Reg. Ent. Reference No. RN102761855
Media [Statute] Edwards Aquifer
Enf. Coordinator Farhaud Abbaszadeh

Docket No. 2017-1455-EAQ-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Failed to obtain approval of an Aboveground Storage Tank ("AST") Facility Plan prior to commencing regulated activities over the Edwards Aquifer Recharge Zone. Specifically, an AST was installed by Building E without approval of an AST Facility Plan.

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="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input checked="" 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 NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

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 Sage-Monterey Oaks, Ltd.
Case ID No. 55208
Reg. Ent. Reference No. RN102761855
Media Edwards Aquifer
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
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	\$650	21-Jul-2017	5-Oct-2018	1.21	\$39	n/a	\$39
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare, submit, and obtain approval of an AST Facility Plan. Date required is the investigation date. Final date is the estimated compliance date.

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

\$650

TOTAL

\$39

Screening Date 26-Sep-2017
Respondent Sage-Monterey Oaks, Ltd.
Case ID No. 55208
Reg. Ent. Reference No. RN102761855
Media [Statute] Edwards Aquifer
Enf. Coordinator Farhaud Abbaszadeh

Docket No. 2017-1455-EAQ-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Failed to obtain approval of an AST Facility Plan prior to commencing regulated activities over the Edwards Aquifer Recharge Zone. Specifically, an AST was installed by Building A without prior approval of an AST Facility Plan.

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="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="5.0%"/>

100% of the rule requirements were not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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="checkbox"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>
N/A	<input type="text"/>

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 Sage-Monterey Oaks, Ltd.

Case ID No. 55208

Reg. Ent. Reference No. RN102761855

Media Edwards Aquifer

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
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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	\$650	29-Mar-2017	30-May-2017	0.17	\$6	n/a	\$6
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare, submit, and obtain approval of an AST Facility Plan. Date required is the date noncompliance was documented. Final date is the compliance date.

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

\$650

TOTAL

\$6

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

Compliance History Report for CN605413517, RN102761855, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN605413517, Sage-Monterey Oaks, Ltd. **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN102761855, MONTEREY OAKS CORPORATE PARK **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 5700 SOUTH MOPAC EXPRESSWAY IN AUSTIN, TRAVIS COUNTY, TEXAS

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

EDWARDS AQUIFER PERMIT 11-98080401

EDWARDS AQUIFER PERMIT 11-98080402

EDWARDS AQUIFER PERMIT 11000603

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 89038

Compliance History Period: September 01, 2012 to August 31, 2017 **Rating Year:** 2017 **Rating Date:** 09/01/2017

Date Compliance History Report Prepared: September 26, 2017

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 26, 2012 to September 26, 2017

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

Name: Farhaud Abbaszadeh

Phone: (512) 239-0779

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

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

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAGE-MONTEREY OAKS, LTD.
RN102761855

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2017-1455-EAQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sage-Monterey Oaks, Ltd. (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a business park located at 5700 South MoPac Expressway in Austin, Travis County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$14,407 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$11,526 of the penalty and \$2,881 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On May 30, 2017, the Respondent's tenant, Texas Windstorm Insurance Agency, obtained approval of an Aboveground Storage Tank ("AST") Facility Plan for the AST installed by Building A.
 - b. On October 17, 2017, conducted the required five year testing on the existing sewage collection system and had the results certified by a Texas Registered Professional Engineer.

II. ALLEGATIONS

During an investigation conducted on July 21, 2017, an investigator documented that the Respondent:

1. Failed to conduct the required five year testing on the existing sewage collection system, in violation of 30 TEX. ADMIN. CODE § 213.5(c)(3)(E)(i) and Edwards Aquifer Protection Program ID No. 11-98080402, Standard Conditions No. 10.
2. Failed to obtain approval of an Edwards Aquifer Protection Plan prior to commencing regulated activities over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.5(a)(4). Specifically, ASTs were installed by Building A and Building E at the Facility without approval of AST Facility Plans.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sage-Monterey Oaks, Ltd., Docket No. 2017-1455-EAQ-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, submit an application for approval of an Edwards Aquifer AST Facility Plan for Building E and associated application fees, in accordance with 30 TEX. ADMIN. CODE § 213.4 to:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - b. Respond completely and adequately to all TCEQ requests for additional information concerning the AST Facility Plan for Building E within 30 days of such requests, or by any other deadline specified in writing.
 - c. Within 120 days after the effective date of this Order, obtain approval of an AST Facility Plan for Building E at the Facility.
 - d. Within 135 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be signed by the Respondent 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



11/1/18

For the Executive Director

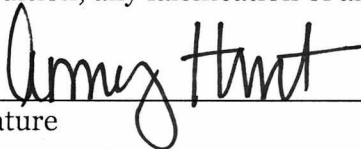
Date

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

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

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

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



Signature

11.16.17

Date

AMY HURST

Name (Printed or typed)

Senior Property Manager

Title

Authorized Representative of
Sage-Monterey Oaks, Ltd.

If mailing address has changed, please check this box and provide the new address below: