

Executive Summary – Enforcement Matter – Case No. 55737
REALTEX VENTURES, LP
RN105658223
Docket No. 2018-0245-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Circle C Children's Courtyard Day Care, 5915 La Crosse Avenue, Austin, Travis County

Type of Operation:

Daycare center

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 28, 2018

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,000

Amount Deferred for Expedited Settlement: \$2,500

Total Paid to General Revenue: \$10,000

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 11, 2018

Date(s) of NOE(s): February 5, 2018

Executive Summary – Enforcement Matter – Case No. 55737
REALTEX VENTURES, LP
RN105658223
Docket No. 2018-0245-EAQ-E

Violation Information

1. Failed to receive approval of a Water Pollution Abatement Plan ("WPAP") modification before commencing construction of a regulated activity. Specifically, play yard pads, foundations, and a small office complex have been constructed or are under construction on Lots 125B and 125C without approval [30 TEX. ADMIN. CODE § 213.4(j) and WPAP No. 11-08120102, Standard Condition No. 6].
2. Failed to submit proof of recordation of notice in the county deed records to the Austin Regional Office within 60 days of receiving written WPAP approval. Specifically, the proof of deed recordation was not submitted by the March 6, 2009 deadline date [30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 11-08120102, Standard Condition No. 4].
3. Failed to submit the certification letter from a Texas Licensed Professional Engineer that the permanent best management practices ("BMPs") were constructed and function as designed to the Austin Regional Office within 30 days of Site completion. Specifically, the certification was not submitted by the February 5, 2011 deadline date [30 TEX. ADMIN. CODE § 213.5(b)(4)(D)(ii)(II) and WPAP No. 11-08120102, Standard Condition No. 18].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 15 days, submit proof of deed recordation in the county deed records to the Austin Regional Office.
- b. Within 30 days:
 - i. Submit written certification of compliance with a.;
 - ii. Submit a WPAP modification application for the play yard pads, foundations, and the small office complex on Lots 125B and 125C; and
 - iii. If a WPAP modification is not pursued, return Lots 125B and 125C to their original state, in accordance with the existing approved plan.

Executive Summary – Enforcement Matter – Case No. 55737
REALTEX VENTURES, LP
RN105658223
Docket No. 2018-0245-EAQ-E

- c. Respond completely and adequately, as determined by the TCEQ to all information concerning the WPAP modification within 30 days after the date of such requests or by any other deadline specified in writing.
- d. Within 45 days, submit written certification of compliance with b.ii. or b.iii.
- e. Within 180 days, submit a certified letter from a Texas Licensed Professional Engineer stating that the current permanent BMPs were constructed and function as designed.
- f. Within 195 days, submit written certification of compliance with e.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Caleb Olson, Enforcement Division, Enforcement Team 1, MC R-4, (817) 588-5856; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: James D. Mills, Manager, REALTEX VENTURES, LP, 4604 Park Springs Boulevard, Suite 150, Arlington, Texas 76017

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	12-Feb-2018	Screening	16-Feb-2018	EPA Due	
	PCW	12-Mar-2018				

RESPONDENT/FACILITY INFORMATION

Respondent	REALTEX VENTURES, LP				
Reg. Ent. Ref. No.	RN105658223				
Facility/Site Region	11-Austin	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	55737	No. of Violations	1
Docket No.	2018-0245-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Caleb Olson
		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** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** 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** **\$0**

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

Total EB Amounts	\$229	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$6,500	

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

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		Final Penalty Amount	\$7,500
--------------	--	-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,500**

DEFERRAL **20.0%** Reduction Adjustment **-\$1,500**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.		
--------------	--	--	--

PAYABLE PENALTY **\$6,000**

Screening Date 16-Feb-2018

Docket No. 2018-0245-EAQ-E

PCW

Respondent REALTEX VENTURES, LP

Policy Revision 4 (April 2014)

Case ID No. 55737

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105658223

Media [Statute] Edwards Aquifer

Enf. Coordinator Caleb Olson

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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 16-Feb-2018
Respondent REALTEX VENTURES, LP
Case ID No. 55737
Reg. Ent. Reference No. RN105658223
Media [Statute] Edwards Aquifer
Enf. Coordinator Caleb Olson

Docket No. 2018-0245-EAQ-E

PCW

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

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(j) and Water Pollution Abatement Plan ("WPAP") No. 11-08120102, Standard Condition No. 6

Violation Description Failed to receive approval of a WPAP modification before commencing construction of a regulated activity. Specifically, play yard pads, foundations, and a small office complex have been constructed or are under construction on Lots 125B and 125C without approval.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

36 **Number of violation days**

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the investigation date (January 11, 2018) to the screening date (February 16, 2018).

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$229

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent REALTEX VENTURES, LP
Case ID No. 55737
Reg. Ent. Reference No. RN105658223
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	Costs Saved	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)	\$6,500	11-Jan-2018	25-Sep-2018	0.70	\$229	n/a	\$229

Notes for DELAYED costs

Estimated cost to pay the WPAP modification fee and to develop and submit a modified WPAP. Date required is the investigation date. Final date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$6,500

TOTAL

\$229



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Feb-2018	Screening	16-Feb-2018	EPA Due	
	PCW	19-Mar-2019				

RESPONDENT/FACILITY INFORMATION

Respondent	REALTEX VENTURES, LP				
Reg. Ent. Ref. No.	RN105658223				
Facility/Site Region	11-Austin	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	55737	No. of Violations	2
Docket No.	2018-0245-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Caleb Olson
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,000**

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** **\$0**

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

Total EB Amounts	\$413	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,025	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,000**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount **\$5,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,000**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,000**

Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
--------------	--

PAYABLE PENALTY **\$4,000**

Screening Date 16-Feb-2018

Docket No. 2018-0245-EAQ-E

PCW

Respondent REALTEX VENTURES, LP

Policy Revision 2 (September 2002)

Case ID No. 55737

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105658223

Media Edwards Aquifer

Enf. Coordinator Caleb Olson

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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

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

Screening Date 16-Feb-2018
Respondent REALTEX VENTURES, LP
Case ID No. 55737
Reg. Ent. Reference No. RN105658223
Media Edwards Aquifer
Enf. Coordinator Caleb Olson

Docket No. 2018-0245-EAQ-E

PCW

Policy Revision 2 (September 2002)
PCW Revision October 30, 2008

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(g) and WPAP No. 11-08120102, Standard Condition No. 4

Violation Description

Failed to submit proof of recordation of notice in the county deed records to the Austin Regional Office within 60 days of receiving written WPAP approval. Specifically, the proof of deed recordation was not submitted by the March 6, 2009 deadline date.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

3269 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent REALTEX VENTURES, LP
Case ID No. 55737
Reg. Ent. Reference No. RN105658223
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	Costs Saved	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)	\$25	6-Mar-2009	10-Sep-2018	9.52	\$12	n/a	\$12

Notes for DELAYED costs

Estimated cost to submit proof of recordation of notice in the county deed records to the Austin Regional Office. Date required is the date proof of recordation was due. Final date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$12

Screening Date 16-Feb-2018

Docket No. 2018-0245-EAQ-E

PCW

Respondent REALTEX VENTURES, LP

Policy Revision 2 (September 2002)

Case ID No. 55737

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105658223

Media Edwards Aquifer

Enf. Coordinator Caleb Olson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 213.5(b)(4)(D)(ii)(II) and WPAP No. 11-08120102, Standard Condition No. 18

Violation Description

Failed to submit the certification letter from a Texas Licensed Professional Engineer that the permanent best management practices ("BMPs") were constructed and function as designed to the Austin Regional Office within 30 days of Site completion. Specifically, the certification was not submitted by the February 5, 2011 deadline date.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

2569 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$401

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent REALTEX VENTURES, LP
Case ID No. 55737
Reg. Ent. Reference No. RN105658223
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	Costs Saved	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)	\$1,000	5-Feb-2011	7-Feb-2019	8.01	\$401	n/a	\$401

Notes for DELAYED costs

Estimated cost to have a Texas Licensed Professional Engineer submit a certified letter to the Austin Regional Office stating that the permanent BMPs were constructed and function as designed. Date required is the date the certified letter was due. Final date is the anticipated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$401

The TCEQ is committed to accessibility.

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



TCEQ Compliance History Report

Compliance History Report for CN603093568, RN105658223, Rating Year 2017 which includes Compliance History (CH) components from September 1, 2012, through August 31, 2017.

Customer, Respondent, or Owner/Operator: CN603093568, REALTEX VENTURES, LP **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN105658223, Circle C Children's Courtyard Day Care **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 5915 La Crosse Avenue in Austin, Travis County, Texas

TCEQ Region: Region 11 - Austin

ID Number(s):

EDWARDS AQUIFER PERMIT 11-08120102

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

Date Compliance History Report Prepared: March 12, 2018

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 12, 2013 to March 12, 2018

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

Name: Caleb Olson

Phone: (512) 239-2541

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
REALTEX VENTURES, LP
RN105658223**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2018-0245-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 REALTEX VENTURES, LP (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 daycare center located at 5915 La Crosse Avenue in Austin, Travis County, Texas (the "Site"). The Site 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 \$12,500 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$10,000 of the penalty and \$2,500 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.

II. ALLEGATIONS

During an investigation conducted on January 11, 2018, an investigator documented that the Respondent:

1. Failed to receive approval of a Water Pollution Abatement Plan ("WPAP") modification before commencing construction of a regulated activity, in violation of 30 TEX. ADMIN. CODE § 213.4(j) and WPAP No. 11-08120102, Standard Condition No. 6. Specifically, play yard pads, foundations, and a small office complex have been constructed or are under construction on Lots 125B and 125C without approval.
2. Failed to submit proof of recordation of notice in the county deed records to the Austin Regional Office within 60 days of receiving written WPAP approval, in violation of 30 TEX. ADMIN. CODE § 213.4(g) and WPAP No. 11-08120102, Standard Condition No. 4. Specifically, the proof of deed recordation was not submitted by the March 6, 2009 deadline date.
3. Failed to submit the certification letter from a Texas Licensed Professional Engineer that the permanent best management practices ("BMPs") were constructed and function as designed to the Austin Regional Office within 30 days of Site completion, in violation of 30 TEX. ADMIN. CODE § 213.5(b)(4)(D)(ii)(II) and WPAP No. 11-08120102, Standard Condition No. 18. Specifically, the certification was not submitted by the February 5, 2011 deadline date.

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: REALTEX VENTURES, LP, Docket No. 2018-0245-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 15 days after the effective date of this Order, submit proof of deed recordation in the county deed records to the Austin Regional Office.
 - b. Within 30 days after the effective date of this Order:
 - i. Submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.g below.
 - ii. Submit a WPAP modification application for the play yard pads, foundations, and the small office complex on Lots 125B and 125C to:

Edwards Aquifer Protection Program
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - iii. If a WPAP modification is not pursued, return Lots 125B and 125C to their original state, in accordance with the existing approved plan.
 - c. Respond completely and adequately, as determined by the TCEQ to all information concerning the WPAP modification within 30 days after the date of such requests or by any other deadline specified in writing.
 - d. Within 45 days after the effective date of this Order, submit written certification of compliance with Ordering Provision Nos. 2.b.ii or 2.b.iii, in accordance with Ordering Provision No. 2.g below.
 - e. Within 180 days after the effective date of this Order, submit a certified letter from a Texas Licensed Professional Engineer stating that the current permanent BMPs were constructed and function as designed to:

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

- f. Within 195 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.e, in accordance with Ordering Provision No. 2.g below.
- g. The certifications of compliance required by Ordering Provision Nos. 2.b.i, 2.d, and 2.f shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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:

Water Section Manager
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 Site 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


For the Executive Director

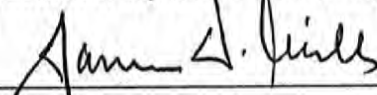
9/30/19
Date

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

August 2, 2019
Date

James Mills
Name (Printed or typed)
Authorized Representative of
REALTEX VENTURES, LP

Manager
Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.