

Executive Summary – Enforcement Matter – Case No. 61043
Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and
Georg Pengg dba Sunrise Beach Marina
RN101641926
Docket No. 2021-1037-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – IHW, WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Sunrise Beach Marina, 667 Sandy Mountain Drive, Sunrise Beach, Llano County

Type of Operation:

Watercraft fueling facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 25, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,242

Amount Deferred for Expedited Settlement: \$2,048

Total Paid to General Revenue: \$238

Total Due to General Revenue: \$7,956

Payment Plan: 34 payments of \$234 each

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 20, 2020 through May 21, 2020 and May 24, 2021

Date(s) of NOE(s): June 7, 2021

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Violation Information

1. Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action within 30 working days of the discovery of the reportable discharge or spill. Specifically, the Respondents did not submit a spill incident report for the May 20, 2020 spill at the Emergency Response Site [30 TEX. ADMIN. CODE § 327.5(c)].
2. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW in such a manner as to cause the discharge or imminent threat of discharge of ISW into or adjacent to waters of the state. Specifically, the investigators documented the unauthorized disposal of approximately 80-90 gallons of gasoline onto the ground soil and into a lake at the Emergency Response Site [30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondents to:

- a. Within 30 days:
 - i. Develop and implement procedures to submit a spill incident report and supporting documentation describing the details of a spill/discharge and the adequacy of the response actions in a timely manner; and
 - ii. Properly remove soil contaminated with gasoline and dispose of it at an authorized facility using appropriate corrective measures.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and
Georg Pengg dba Sunrise Beach Marina
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Docket No. 2021-1037-MLM-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Karolyn Kent, Enforcement Division,
Enforcement Team 6, MC 219, (512) 239-2536; Michael Parrish, Enforcement Division,
MC 219, (512) 239-2548

Respondent: Georg Pengg, Director, Lake LBJ Boutique Resort & Marina, 667 Sandy
Mountain Drive, Sunrise Beach, Texas 78643-9265

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	14-Jun-2021	Screening	14-Jul-2021	EPA Due	
	PCW	9-Aug-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and Georg Pengg dba Sunrise Beach Marina				
Reg. Ent. Ref. No.	RN101641926				
Facility/Site Region	11-Austin	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	61043	No. of Violations	2
Docket No.	2021-1037-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Karolyn Kent
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0%	Adjustment	Subtotals 2, 3, & 7	\$437
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Notes	Enhancement for one NOV with same or similar violations.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,069	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,203	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,187
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OTHER FACTORS AS JUSTICE MAY REQUIRE	11.5%	Adjustment	\$1,055
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 2.			
	Final Penalty Amount	\$10,242		

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,242
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,048
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
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PAYABLE PENALTY	\$8,194
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Screening Date	14-Jul-2021	Docket No.	2021-1037-MLM-E	PCW
Respondent Case ID No.	61043	Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and Georg Pengg dba Sunrise Beach Marina		<i>Policy Revision 5 (January 28, 2021)</i>
Reg. Ent. Reference No.	RN101641926			<i>PCW Revision February 11, 2021</i>
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Karolyn Kent			

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>)	1	5%
	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) 5%

>> 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

Enhancement for one NOV with same or similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date	14-Jul-2021	Docket No.	2021-1037-MLM-E	PCW
Respondent	Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and			
Case ID No.	61043	<i>Policy Revision 5 (January 28, 2021)</i>		
Reg. Ent. Reference No.	RN101641926	<i>PCW Revision February 11, 2021</i>		
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Karolyn Kent			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 327.5(c)			
Violation Description	Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action within 30 working days of the discovery of the reportable discharge or spill. Specifically, the Respondents did not submit a spill incident report for the May 20, 2020 spill at the Emergency Response Site.			
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 10.0%

Matrix Notes	100% of the rule requirement was not met.
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Adjustment \$22,500

\$2,500

Violation Events

Number of Violation Events	1	376	Number of violation days
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	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%			
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	X			
Notes	The Respondents do 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	\$530
	Violation Final Penalty Total \$2,926
This violation Final Assessed Penalty (adjusted for limits) \$2,926	

Economic Benefit Worksheet

Respondent Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and Georg Pengg dba Sunrise Beach Marina
Case ID No. 61043
Reg. Ent. Reference No. RN101641926
Media Violation No. Industrial and Hazardous Waste 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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				0.00	\$0	n/a	\$0
Other (as needed)	\$100	24-May-2021	10-Apr-2022	0.88	\$4	n/a	\$4

Notes for DELAYED costs

Estimated delayed cost to develop and implement procedures to submit a spill incident report and supporting documentation describing the details of a spill/discharge and the adequacy of the response actions in a timely manner. The Date Required is the record review date, and the Final Date is the estimated date of compliance.

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	\$500	3-Jul-2020	14-Jul-2021	1.03	\$26	\$500	\$526
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to submit a spill incident report and supporting documentation describing the details of the spill/dishcarge and the adequacy of the response actions. The Date Required is the initial spill incident report due date, and the Final Date is the screening date.

Approx. Cost of Compliance

\$600

TOTAL

\$530

Screening Date	14-Jul-2021	Docket No.	2021-1037-MLM-E	PCW
Respondent	Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and			
Case ID No.	61043	<i>Policy Revision 5 (January 28, 2021)</i>		
Reg. Ent. Reference No.	RN101641926	<i>PCW Revision February 11, 2021</i>		
Media	Industrial and Hazardous Waste			
Enf. Coordinator	Karolyn Kent			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 335.4(1) and Tex. Water Code § 26.121(a)			
Violation Description	Caused, suffered, allowed, or permitted the unauthorized disposal of industrial solid waste ("ISW") in such a manner as to cause the discharge or imminent threat of discharge of ISW into or adjacent to waters of the state. Specifically, the investigators documented the unauthorized disposal of approximately 80-90 gallons of gasoline onto the ground soil and into a lake at the Emergency Response Site.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual		X		Percent 25.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$18,750
	\$6,250

Violation Events

Number of Violation Events	1	51	Number of violation days
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	daily				Violation Base Penalty \$6,250
	weekly				
	monthly				
	quarterly	X			
	semiannual				
	annual				
	single event				

One quarterly event is recommended from the May 24, 2021 record review date to the July 14, 2021 screening date.

Good Faith Efforts to Comply

	0.0%		Reduction	\$0
		Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer	
Extraordinary				
Ordinary				
N/A	X			

	The Respondents do not meet the good faith criteria for this violation.
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Violation Subtotal	\$6,250
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Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$539
	Violation Final Penalty Total \$7,316
This violation Final Assessed Penalty (adjusted for limits) \$7,316	

Economic Benefit Worksheet

Respondent Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and Georg Pengg dba Sunrise Beach Marina
Case ID No. 61043
Reg. Ent. Reference No. RN101641926
Media Industrial and Hazardous Waste
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
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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	\$103	21-May-2020	10-Apr-2022	1.89	\$10	n/a	\$10
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to properly remove soil contaminated with gasoline and dispose of it at an authorized facility using appropriate corrective measures. The Date Required is the initial investigation end date, and the Final Date is the estimated date of compliance.

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	\$500	21-May-2020	14-Jul-2021	1.15	\$29	\$500	\$529
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to properly remove gasoline from the water and dispose of it at an authorized facility using appropriate corrective measures. The Date Required is the initial investigation end date, and the Final Date is the screening date.

Approx. Cost of Compliance

\$603

TOTAL

\$539

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Compliance History Report

Compliance History Report for CN603815549, RN101641926, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN603815549, Lake LBJ Boutique Resort & Marina, LLC **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101641926, Sunrise Beach Marina **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 667 Sandy Mountain Drive, Sunrise Beach, Llano County, Texas 78643-9265

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 76702 **PETROLEUM STORAGE TANK NON REGISTERED ID** NUMBER 76702

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: September 15, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 15, 2016 to September 15, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Karolyn Kent **Phone:** (512) 239-2536

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.

- 1 Date: 11/06/2020 (1652767)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 327 327.5(c)
- Description: Failure to submit written information describing the details of the discharge or spill and supporting the adequacy of the response action to the TCEQ within 30 working days of the discovery of the reportable discharge or spill.

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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Compliance History Report

Compliance History Report for CN605826213, RN101641926, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605826213, Georg Pengg **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101641926, Sunrise Beach Marina **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 667 Sandy Mountain Drive, Sunrise Beach, Llano County, Texas 78643-9265

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 76702 **PETROLEUM STORAGE TANK NON REGISTERED ID** NUMBER 76702

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: September 15, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 15, 2016 to September 15, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Karolyn Kent **Phone:** (512) 239-2536

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.

- 1 Date: 11/06/2020 (1652767)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 327 327.5(c)
Description: Failure to submit written information describing the details of the discharge or spill and supporting the adequacy of the response action to the TCEQ within 30 working days of the discovery of the reportable discharge or spill.

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**

**LAKE LBJ BOUTIQUE RESORT &
MARINA, LLC DBA SUNRISE
BEACH MARINA AND GEORG
PENGGB DBA SUNRISE BEACH
MARINA
RN101641926**

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1037-MLM-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 Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and Georg Pengg dba Sunrise Beach Marina (the "Respondents") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents together stipulate that:

1. The Respondents own and operate a watercraft fueling facility located at 667 Sandy Mountain Drive in Sunrise Beach, Llano County, Texas (the "Emergency Response Site"). The Emergency Response Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5). The Emergency Response Site involves or involved the management of industrial and solid waste ("ISW"), as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and the Respondents 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 Respondents are 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. HEALTH & SAFETY CODE ch. 361, 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$10,242 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents paid \$238 of the penalty and \$2,048 is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$7,956 of the undeferred penalty shall be paid in 34 monthly payments of \$234 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If the Respondents fail to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondents' failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondents 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 Respondents have 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 emergency response investigation conducted on May 20 through 21, 2020 and a record review conducted on May 24, 2021, an investigator documented that the Respondents:

1. Failed to submit written information, describing the details of the discharge or spill and supporting the adequacy of the response action within 30 working days of the discovery of the reportable discharge or spill, in violation of 30 TEX. ADMIN. CODE § 327.5(c). Specifically, the Respondents did not submit a spill incident report for the May 20, 2020 spill at the Emergency Response Site.
2. Caused, suffered, allowed, or permitted the unauthorized disposal of ISW in such a manner as to cause the discharge or imminent threat of discharge of ISW into or adjacent to waters of the state, in violation of 30 TEX. ADMIN. CODE § 335.4(1) and TEX. WATER CODE § 26.121(a). Specifically, the investigators documented the unauthorized disposal of approximately 80-90 gallons of gasoline onto the ground soil and into a lake at the Emergency Response Site.

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondents' 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: Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina and Georg Pengg dba Sunrise Beach Marina, Docket No. 2021-1037-MLM-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 Respondents are jointly and severally liable for the violations documented in this Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. The Respondents shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Develop and implement procedures to submit a spill incident report and supporting documentation describing the details of a spill/discharge and the adequacy of the response actions in a timely manner, in accordance with 30 TEX. ADMIN. CODE § 327.5; and
 - ii. Properly remove soil contaminated with gasoline and dispose of it at an authorized facility using appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 335.4.
 - b. Within 45 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. 3.a. The certification shall be signed by the Respondents 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:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Emergency Response Site operations referenced in this Order.
6. If the Respondents fail 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 Respondents' failure to comply is not a violation of this Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive 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.
8. This Order, issued by the Commission, shall not be admissible against the Respondents 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.
9. 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.
 10. 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

7/5/2023

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

08/11/2022

Date

Georg Pengg

Managing Member

Name (Printed or typed)

Title

Authorized Representative of

Lake LBJ Boutique Resort & Marina, LLC dba Sunrise Beach Marina

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

SIGNATURE PAGE

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08/11/2022

Date

Georg Pengg
Name (Printed or typed)
Authorized Representative of
Georg Pengg dba Sunrise Beach Marina

Managing Member
Title

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