

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 46774  
LIVE OAK RESORT, INC.  
RN101269926  
Docket No. 2013-0866-WQ-E

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

Water Quality (WQ)

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

9751 Lone Star Road, Washington, Washington County

**Type of Operation:**

recreational/residential resort with an onsite sewage facility ("OSSF")

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** April 10, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$45,000

**Total Paid to General Revenue:** \$1,250

**Total Due to General Revenue:** \$43,750

Payment Plan: 35 payments of \$1,250 each

**Compliance History Classifications:**

Person/CN – Not applicable

Site/RN – Not applicable

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**LIVE OAK RESORT, INC.**  
**RN101269926**  
**Docket No. 2013-0866-WQ-E**

**Investigation Information**

**Complaint Date(s):** January 23, 2013  
Complaint Information: Alleged inadequate sewer facilities for the number of tenants.

**Date(s) of Investigation:** February 6, 2013

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

**Date(s) of NOE(s):** April 8, 2013

**Violation Information**

Failed to prevent unauthorized discharge of wastewater in or adjacent to water in the state (wastewater discharged from the OSSF leach field into an unnamed tributary of Coles Creek; sample results indicated high levels of *Escherichia Coli* and ammonia) [TEX. WATER CODE § 26.121(a)(1)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately cease unauthorized discharges of wastewater from the OSSF at the Facility.
2. Within 90 days, provide an evaluation of the current OSSF which includes plans or drawings of the entire system and calculations of the loading received by the OSSF, identify deficiencies within the OSSF, and implement corrective actions necessary to prevent further unauthorized discharges.
3. Within 105 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** June 05, 2014

**Date Answer Filed:** June 11, 2014

**SOAH Referral Date:** August 01, 2014

**Hearing Date(s):**  
Preliminary Hearing: September 18, 2014  
Evidentiary Hearing: March 27, 2015

**Settlement Date:** March 12, 2015

**Contact Information**

**TCEQ Attorneys:** Jim Sallans, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Heather Brister, Enforcement Division, (254) 761-3034

**TCEQ Regional Contact:** Richard Monreal, Waco Regional Office, (254) 751-0335

**Respondent Contact:** Larry Hildebrand, President, LIVE OAK RESORT, INC., 9751 Lone Star Road, Washington, Texas 77880

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	22-Apr-2013		
	<b>PCW</b>	6-May-2013	<b>Screening</b>	30-Apr-2013
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	LIVE OAK RESORT, INC.
<b>Reg. Ent. Ref. No.</b>	RN101269926
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	46774	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0866-WQ-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Heather Brister
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$37,500
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	20.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b>	\$7,500

<b>Notes</b>	Enhancement for one order with denial of liability.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$740	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$45,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$45,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$45,000
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$45,000
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**Screening Date** 30-Apr-2013

**Docket No.** 2013-0866-WQ-E

**PCW**

**Respondent** LIVE OAK RESORT, INC.

*Policy Revision 3 (September 2011)*

**Case ID No.** 46774

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN101269926

**Media [Statute]** Water Quality

**Enf. Coordinator** Heather Brister

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

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

**Adjustment Percentage (Subtotal 2)** 20%

**>> Repeat Violator (Subtotal 3)**

N/A

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

N/A

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one order with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 20%

**Screening Date** 30-Apr-2013  
**Respondent** LIVE OAK RESORT, INC.  
**Case ID No.** 46774  
**Reg. Ent. Reference No.** RN101269926  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Heather Brister

**Docket No.** 2013-0866-WQ-E

**PCW**

*Policy Revision 3 (September 2011)*  
*PCW Revision August 3, 2011*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Failed to prevent the unauthorized discharges of wastewater into or adjacent to water in the state, as documented during an investigation conducted on February 6, 2013. Specifically, wastewater was discharging from an on-site sewage facility ("OSSF") leach field into an unnamed tributary of Coles Creek. Sample results from the discharge indicated high levels of Escherichia coli ("E.coli") (6,488,000 most probable number per 100 milliliters ("mpn/100 ml")) and high levels of ammonia (45.4 milligrams per liter ("mg/L")).

**Base Penalty**

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

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

**>> Programmatic Matrix**

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

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

Three monthly events are recommended from the investigation date (February 6, 2013) to the screening date (April 30, 2013).

**Good Faith Efforts to Comply**

Reduction

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

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** LIVE OAK RESORT, INC.  
**Case ID No.** 46774  
**Reg. Ent. Reference No.** RN101269926  
**Media** Water Quality  
**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
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	6-Feb-2013	31-Jul-2014	1.48	\$740	n/a	\$740

**Notes for DELAYED costs**  
 Estimated cost to remediate the affected areas and take all necessary actions to prevent unauthorized discharges from occurring. Date required is the initial investigation date and the final date is the anticipated date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$10,000

**TOTAL** \$740

The TCEQ is committed to accessibility.

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



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600699789, RN101269926, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600699789, LIVE OAK RESORT, INC. **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN101269926, LIVE OAK RESORT **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 9751 LONE STAR RD, WASHINGTON, WASHINGTON COUNTY, TEXAS

**TCEQ Region:** REGION 09 - WACO

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

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** January 14, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 14, 2009 to January 14, 2014

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

**Name:** Heather Brister

**Phone:** (254) 761-3034

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

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

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

**1 Effective Date: 12/04/2010 ADMINORDER 2010-0411-PWS-E (1660 Order-Agreed Order With Denial)**

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)

Description: Failure to notify the Commission prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(d)(3)

Description: Failure to equip the pressure tank air injection line with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(ii)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide a ground storage capacity of 35 gallons per connection.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(c)(1)(B)(iii)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failure to provide two or more service pumps which have a total capacity of 1.0 gpm per connection.

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

N/A

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

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

N/A

### **F. Environmental audits:**

N/A

### **G. Type of environmental management systems (EMSs):**

N/A

### **H. Voluntary on-site compliance assessment dates:**

N/A

### **I. Participation in a voluntary pollution reduction program:**

N/A

### **J. Early compliance:**

N/A

### **Sites Outside of Texas:**

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2013-0866-WQ-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding LIVE OAK RESORT, INC. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent presented this Order to the Commission.

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

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon Respondent.

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

### **FINDINGS OF FACT**

1. Respondent owns and operates a recreational resort with an on-site sewage facility ("OSSF") located at 9751 Lone Star Road in Washington, Washington 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. During an investigation conducted on February 6, 2013, an investigator documented that Respondent failed to prevent unauthorized discharges of wastewater in or adjacent to water in the state. Specifically, wastewater discharged from the OSSF leach field into an unnamed tributary of Coles Creek. Sample results from the discharge indicated high levels of *Escherichia Coli* ("*E. Coli*") (6,488,000 most probable number per 100 milliliters ("mpn/100 ml") and high levels of ammonia (45.4 milligrams per liter ("mg/L")).

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to prevent unauthorized discharges of wastewater in or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against Respondent for violations of state statutes within

TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of forty-five thousand dollars (\$45,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Respondent paid one thousand two hundred fifty dollars (\$1,250.00) of the penalty. The remaining amount of forty-three thousand seven hundred fifty dollars (\$43,750.00) shall be paid in thirty-five (35) payments of one thousand two hundred fifty dollars (\$1,250.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Order.

#### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions 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: LIVE OAK RESORT, INC., Docket No. 2013-0866-WQ-E" to:  

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, cease unauthorized discharges of wastewater from the OSSF at the Facility.
  - b. Within 90 days after the effective date of this Order, provide an evaluation of the current OSSF which includes plans or drawings of the entire system and calculations of the loading received by the OSSF, identify deficiencies within the OSSF, and implement corrective actions necessary to prevent further unauthorized discharges.
  - c. Within 105 days after the effective date of this Order, submit written certification, to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 fine and imprisonment for knowing violations."

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

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

and:

Waste Section Manager  
Texas Commission on Environmental Quality  
Waco Regional Office  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. 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. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. If 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the Office of the Attorney General of the State of Texas ("OAG") to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within TCEQ's jurisdiction, or of a rule adopted or an order or permit issued by TCEQ under such a statute. The Executive Director may, without further notice or hearing, refer this matter to the OAG for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

8. 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.
9. 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.
10. 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.
11. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

LIVE OAK RESORT, INC.  
Docket No. 2013-0866-WQ-E  
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Handwritten Signature]*  
\_\_\_\_\_  
For the Executive Director

*April 24, 2015*  
\_\_\_\_\_  
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 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;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

*Larry Hildebrand*  
\_\_\_\_\_  
Signature - Larry Hildebrand, President  
LIVE OAK RESORT, INC.  
9751 Lone Star Road  
Washington, Texas 77880

*3-12-15*  
\_\_\_\_\_  
Date

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

\_\_\_\_\_