

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0481-MWD-E **TCEQ ID:** RN101609972 **CASE NO.:** 33075

RESPONDENT NAME: Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Rocky Point MHP Flower Mound, 4601 Shiloh Road, Flower Mound, Denton County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 3, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, R-04, (817) 588-5890; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Corey Donaldson, Corporate Vice President, Rocky Point Estates Land Trust, 1927 Harbor Boulevard, Suite 610, Costa Mesa, California 92627 Mr. Blake E. Donaldson, Agent, Rocky Point Estates Land Trust, 4601 Shiloh Road, Flower Mound, Texas 75022 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0481-MWD-E

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 9, 2007</p> <p>Date of NOE Relating to this Case: March 22, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13732001, Effluent Limitations and Monitoring Requirements, No. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$5,540</p> <p>Total Deferred: \$1,108 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,432</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Rocky Point achieved full compliance with Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13732001, Effluent Limitations and Monitoring Requirements, No. 1 and 6, on July 1, 2006 by increasing the waste schedule and feeding lime into the aeration basin to provide alkalinity and a reliable food source which was the root source of the permit exceedances.</p>



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	26-Mar-2007	Screening	28-Mar-2007	EPA Due	
	PCW	2-Apr-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound		
Reg. Ent. Ref. No.	RN101609972		
Facility/Site Region	4-Fort Worth	Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33075	No. of Violations	1	
Docket No.	2007-0481-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.	
Multi-Media		EC's Team	EnforcementTeam 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: The Respondent was issued one NOV with the same or similar type of violations, one Court Order, and self-reported 29 months of effluent violations. The penalty was also enhanced due to Repeat Violator status.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Reduction **Subtotal 5**

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent achieved full compliance on 07/01/2006.

Total EB Amounts **Subtotal 6**
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Recommend reduction to prevent double-enhancement of the penalty for same or similar violations that are not self-reported.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 28-Mar-2007

Docket No. 2007-0481-MWD-E

PCW

Respondent Rocky Point Estates Land Trust dba Rocky Point MHP FI

Policy Revision 2 (September 2002)

Case ID No. 33075

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101609972

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
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NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	30	150%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	1	30%
	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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) 180%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued one NOV with the same or similar type of violations, one Court Order, and self-reported 29 months of effluent violations. The penalty was also enhanced due to Repeat Violator status.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 205%

Screening Date 28-Mar-2007

Docket No. 2007-0481-MWD-E

PCW

Respondent Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mc

Policy Revision 2 (September 2002)

Case ID No. 33075

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101609972

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13732001, Effluent Limitations and Monitoring Requirements, No. 1 and 6, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate NH3-N to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids ("TSS"), dissolved oxygen, and fecal coliform bacteria values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

122 Number of violation days

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended based on the months the permitted limits were exceeded.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$166

Violation Final Penalty Total \$5,540

This violation Final Assessed Penalty (adjusted for limits) \$5,540

Economic Benefit Worksheet

Respondent Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound
Case ID No. 33075
Reg. Ent. Reference No. RN101609972
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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Nov-2005	1-Jul-2006	0.7	\$166	n/a	\$166

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the first day of non-compliance, Final Date is the compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$166

Effluent Limit Violation Table

table rev.

Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound

RN101609972, Case No. 33075

2007-0481-MWD-E

Jorge Ibarra, P.E.

Corresponds to Violation Number:

1

EFFLUENT PARAMETER

Permit Limit

	Minimum DO	TSS Daily Average	TSS Daily Average (loading)	TSS Single Grab	NH3-N Daily Average	NH3-N Single Grab	Fecal Coliform Bacteria Single Grab		
Month/Year	4 mg/L	15 mg/L	7.5 lbs/day	60 mg/L	3 mg/L	15 mg/L	800 col/mL		
Jan-06	c	57.18	8.13	140	c	c	c		
Mar-06	c	c	c	c	< 8.59	22	c		
Apr-06	c	c	c	c	< 5.06	17	c		
Jun-06	2.9	c	c	c	c	c	2000		

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator: CN602877839 Rocky Point Estates Land Trust Classification: AVERAGE Rating: 24.10

Regulated Entity: RN101609972 ROCKY POINT MHP FLOWER MOUND Classification: AVERAGE Site Rating: 24.10

ID Number(s):
 WASTEWATER PERMIT WQ0013732001
 WASTEWATER PERMIT TX0123552
 WASTEWATER PERMIT TPDES0123552
 WASTEWATER PERMIT WQ0013732001
 WASTEWATER PERMIT TPDES0123552

Location: 4601 SHILOH RD, FLOWER MOUND, TX, 75022 Rating Date: September 01 06 Repeat Violator: YES

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 27, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: March 27, 2002 to March 27, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner?
Rocky Point Estates Land Trust
4. If Yes, who was/were the prior owner(s)?
CMH Parks, Inc. dba Raintree
Acres Mobile Home Park
5. When did the change(s) in ownership occur?
05/24/2005

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 06/02/2004 COURTORDER

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: MRR 1 PERMIT

Description: Failure to timely submit monthly effluent reports.

Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121

Rqmt Prov: Not specified PERMIT

OP 2b ORDER

Description: Failure to meet permitted effluent limits between May 2000 and March 2002.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: OR 4 PERMIT

PC 2d PERMIT

Description: Failure to prevent the discharge of solids into the receiving stream.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OR 1 PERMIT

Description: Failure to properly operate and maintain facility. No skimmer arm on clarifier, walkway covered in dried solids, accumulated dried scum in effluent trough, solids in chlorine contact chamber, unsafe conditions, pipe on walkways, boards cover walkway.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: MRR 7c PERMIT

Description: Failure to report w/in five days effluent violations which deviated from permitted effluent limits by more than 40% for each month from May - Nov 2001.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	05/20/2002	(IE0008147003(
2	08/12/2002	(462)
3	08/13/2002	(842)
4	04/14/2003	(236487)
5	04/22/2003	(328648)
6	05/20/2003	(328650)
7	06/23/2003	(328651)
8	07/18/2003	(328653)
9	08/19/2003	(328654)
10	09/22/2003	(328655)
11	10/03/2003	(250371)
12	10/29/2003	(367849)
13	11/20/2003	(328656)
14	12/12/2003	(328657)
15	01/22/2004	(328658)
16	02/20/2004	(328646)
17	03/18/2004	(328647)
18	04/20/2004	(328649)
19	04/30/2004	(267002)
20	05/20/2004	(367844)
21	06/17/2004	(328652)
22	07/16/2004	(367845)
23	08/20/2004	(367846)
24	08/27/2004	(367843)
25	08/27/2004	(367847)
26	08/27/2004	(367848)
27	08/27/2004	(367851)
28	08/27/2004	(367852)
29	08/27/2004	(367853)
30	09/23/2004	(390494)
31	10/20/2004	(367850)
32	11/22/2004	(390495)
33	12/20/2004	(390496)
34	01/21/2005	(390497)
35	02/23/2005	(390492)
36	03/21/2005	(390493)
37	04/22/2005	(427962)
38	05/20/2005	(427963)
39	01/19/2006	(439457)
40	08/18/2006	(509345)
41	03/22/2007	(539994)

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

Date: 08/31/2002 (367847)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date:	09/30/2002	(367848)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2002	(367851)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2002	(367852)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2002	(367853)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	01/31/2003	(367843)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	02/28/2003	(236487)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2003	(328648)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2003	(328650)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	05/31/2003	(328651)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2003	(328653)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2003	(328654)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2003	(328655)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	09/30/2003	(367849)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			

Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2003 (328656)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2003 (328657)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2004 (328646)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/29/2004 (328647)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2004 (328649)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2004 (367846)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2004 (390494)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2004 (367850)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2004 (390495)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2005 (390492)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	02/28/2005 (390493)		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/20/2006 (439457)		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(g)[G]		
Description:	Failure to prevent excessive foam from collecting in the aeration basin.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to comply with permitted DO, TSS, CBOD5, Cl2, and NH3--N		

effluent limitations.

Date: 01/31/2006

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

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
ROCKY POINT ESTATES LAND
TRUST DBA ROCKY POINT MHP
FLOWER MOUND
RN101609972

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BEFORE THE

TEXAS COMMISSION ON

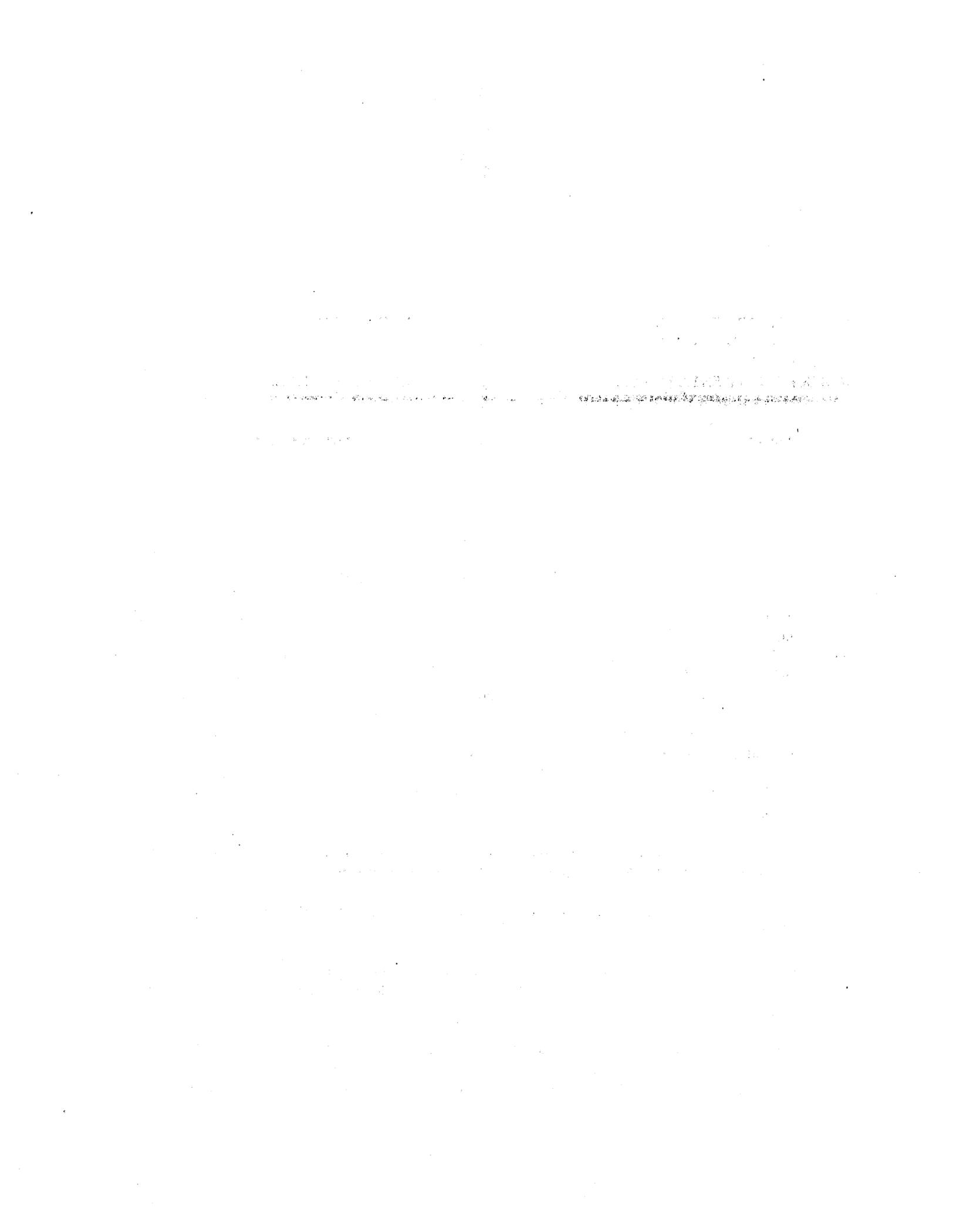
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0481-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound ("Rocky Point") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Rocky Point appear before the Commission and together stipulate that:

1. Rocky Point owns and operates a wastewater treatment facility at 4601 Shiloh Road in Flower Mound, Denton County, Texas (the "Facility").
2. Rocky Point has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Rocky Point agree that the Commission has jurisdiction to enter this Agreed Order, and that Rocky Point is subject to the Commission's jurisdiction.
4. Rocky Point received notice of the violations alleged in Section II ("Allegations") on or about March 27, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Rocky Point of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Five Hundred Forty Dollars (\$5,540) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Rocky Point has paid Four Thousand Four Hundred Thirty-Two Dollars (\$4,432)



of the administrative penalty and One Thousand One Hundred Eight Dollars (\$1,108) is deferred contingent upon Rocky Point's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Rocky Point fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Rocky Point to pay all or part of the deferred penalty.

7. 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.
8. The Executive Director of the TCEQ and Rocky Point have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Rocky Point achieved full compliance with Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13732001, Effluent Limitations and Monitoring Requirements, No. 1 and 6, on July 1, 2006 by increasing the waste schedule and feeding lime into the aeration basin to provide alkalinity and a reliable food source which was the root source of the permit exceedances.
10. 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 Rocky Point has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Rocky Point is alleged to have failed to comply with permit effluent limits, in violation of TPDES Permit No. 13732001, Effluent Limitations and Monitoring Requirements, No. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on February 9, 2007 as indicated in the table below.

<i>EFFLUENT PARAMETER</i>							
<i>Permit Limit</i>							
	Minimum DO	TSS Daily Average	TSS Daily Average (loading)	TSS Single Grab	NH3-N Daily Average	NH3-N Single Grab	Fecal Coliform Bacteria Single Grab
<i>Month/Year</i>	4 mg/L	15 mg/L	7.5 lbs/day	60 mg/L	3 mg/L	15 mg/L	800 col/mL
Jan-06	c	57.18	8.13	140	c	c	c
Mar-06	c	c	c	c	< 8.59	22	c
Apr-06	c	c	c	c	< 5.06	17	c
Jun-06	2.9	c	c	c	c	c	2000

mg/L = milligrams per liter lbs/day = pounds per day c = compliant
 col/mL = colonies per milliliter

III. DENIALS

Rocky Point generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Rocky Point pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Rocky Point's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound, Docket No. 2007-0481-MWD-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon Rocky Point. Rocky Point is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Rocky Point in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed 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.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Rocky Point, or three days after the date on which the Commission mails notice of the Order to Rocky Point, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 9/7/07

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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

Date 6/11/2007

Name (Printed or typed)

Title Agent

Authorized Representative of
Rocky Point Estates Land Trust dba Rocky Point MHP Flower Mound

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

