

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0527-MWD-E **TCEQ ID:** RN101917458 **CASE NO.:** 37385

**RESPONDENT NAME:** Scenic Point Northview, Inc.

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Scenic Point Northview, located approximately 3,500 feet west of the intersection of Farm-to-Market Road 2951 and Park Road 36, Palo Pinto County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on August 31, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. John D. Stelzer, President, Scenic Point Northview, Inc., 1800 Farm-to-Market Road 2951, Graford, Texas 76449  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 3, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 22, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permitted effluent limitations at Outfall 001A for total chlorine residual [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 2].</p>	<p><b>Total Assessed:</b> \$19,760</p> <p><b>Total Deferred:</b> \$3,952  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$15,808</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014173001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0014173001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-Mar-2009	<b>Screening</b>	30-Mar-2009	<b>EPA Due</b>	
	<b>PCW</b>	30-Mar-2009				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Scenic Point Northview, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN101917458		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	37385	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-0527-MWD-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Carlie Konkol
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$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**

**Culpability**   Enhancement **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 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.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 30-Mar-2009

Docket No. 2009-0527-MWD-E

PCW

Respondent Scenic Point Northview, Inc.

Policy Revision 2 (September 2002)

Case ID No. 37385

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101917458

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	27	135%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (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) 155%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

An enhancement is recommended for having twenty-five monthly self-reported effluent violations, two Notice of Violation ("NOV") with same or similar violations and one final enforcement agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 155%

<b>Screening Date</b> 30-Mar-2009	<b>Docket No.</b> 2009-0527-MWD-E	<b>PCW</b>	
<b>Respondent</b> Scenic Point Northview, Inc.	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37385	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101917458			
<b>Media [Statute]</b> Water Quality			
<b>Enf. Coordinator</b> Carlie Konkol			
<b>Violation Number</b> 1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 2		
<b>Violation Description</b>	Failed to comply with permitted effluent limitations, as documented by a record review of self-reported data on February 3, 2009 and shown in the attached table.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Release</b>	<b>Harm</b>	
		Major      Moderate      Minor	
	Actual	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<b>Percent</b> 10%
Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
<b>&gt;&gt; Programmatic Matrix</b>			
	<b>Falsification</b>	Major      Moderate      Minor	
	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<b>Percent</b> 0%
<b>Matrix Notes</b>	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.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
	<b>Number of Violation Events</b>	3	<b>Number of violation days</b>
		121	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$3,000
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
Three quarterly events are recommended for the quarters containing the months of January, February, March and May 2008.			
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		<small>Before NOV      NOV to EDRP/Settlement Offer</small>	
	Extraordinary	<input type="checkbox"/>	
	Ordinary	<input type="checkbox"/>	
	N/A	<input checked="" type="checkbox"/> (mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		\$3,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$1,636	<b>Violation Final Penalty Total</b>	\$7,410
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$7,410

## Economic Benefit Worksheet

**Respondent** Scenic Point Northview, Inc.  
**Case ID No.** 37385  
**Reg. Ent. Reference No.** RN101917458  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$10,000	31-Aug-2007	31-Dec-2009	2.34	\$78	\$1,558	\$1,636
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)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated costs to perform an engineering survey to identify and repair problems related to the treatment system. The Date Required is the first date of noncompliance. The Final Date is the expected date of compliance with permitted effluent limitations.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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** \$1,636

<b>Screening Date</b> 30-Mar-2009	<b>Docket No.</b> 2009-0527-MWD-E	<b>PCW</b>															
<b>Respondent</b> Scenic Point Northview, Inc.	<small>Policy Revision 2 (September 2002)</small>																
<b>Case ID No.</b> 37385	<small>PCW Revision October 30, 2008</small>																
<b>Reg. Ent. Reference No.</b> RN101917458																	
<b>Media [Statute]</b> Water Quality																	
<b>Enf. Coordinator</b> Carlie Konkol																	
<b>Violation Number</b> <input type="text" value="2"/>																	
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 2																
<b>Violation Description</b>	Failed to comply with permitted effluent limitations, as documented by a record review of self-reported data on February 3, 2009 and shown in the attached table.																
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
OR	<b>Release</b>	<b>Harm</b>															
		Major      Moderate      Minor															
	Actual	<input type="text" value="x"/>															
	Potential	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																	
	Falsification	Major      Moderate      Minor															
	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>														
<b>Matrix Notes</b>	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.																
<b>Adjustment</b>		<input type="text" value="\$7,500"/>	<input type="text" value="\$2,500"/>														
<b>Violation Events</b>																	
	<b>Number of Violation Events</b> <input type="text" value="2"/>	<input type="text" value="61"/> <b>Number of violation days</b>															
<small>mark only one with an x</small>	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input checked="" type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input checked="" type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b>	<input type="text" value="\$5,000"/>
daily	<input type="text"/>																
weekly	<input type="text"/>																
monthly	<input checked="" type="text"/>																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	<input type="text"/>																
Two monthly events are recommended for the months of August and September 2007.																	
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/> <b>Reduction</b>	<input type="text" value="\$0"/>														
		<small>Before NOV      NOV to EDPRP/Settlement Offer</small>															
	Extraordinary	<input type="text"/>															
	Ordinary	<input type="text"/>															
	N/A	<input checked="" type="text"/> (mark with x)															
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																
<b>Violation Subtotal</b>		<input type="text" value="\$5,000"/>															
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>															
<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$12,350"/>														
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$12,350"/>														

## Economic Benefit Worksheet

**Respondent** Scenic Point Northview, Inc.  
**Case ID No.** 37385  
**Reg. Ent. Reference No.** RN101917458  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: See economic benefit for violation #1.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
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 \$0

TOTAL \$0

Scenic Point Northview, Inc.  
Docket No. 2009-0527-MWD-E; Case No. 37385  
TPDES Permit No. WQ0014173001; RN101917458

<b>EFFLUENT TABLE</b>		
Monitoring Periods	Permit Effluent Limits	
	Total Residual Chlorine Minimum 1.0 mg/L	Total Residual Chlorine Maximum 4.0 mg/L
August 2007	0.90	8.40
September 2007	C	8.40
January 2008	0.70	C
February 2008	C	4.10
March 2008	0.80	C
May 2008	C	4.10

mg/L – Milligrams per Liter
C – Compliant



### Compliance History Report

Customer/Respondent/Owner-Operator: CN601047731 Scenic Point Northview, Inc. Classification: AVERAGE Rating: 4.84  
Regulated Entity: RN101917458 SCENIC POINT NORTHVIEW Classification: AVERAGE Site Rating: 4.84  
ID Number(s): WASTEWATER PERMIT WQ0014173001  
WASTEWATER PERMIT TPDES0121797  
WASTEWATER PERMIT TX0121797  
WASTEWATER PERMIT TX0121797  
Location: LOCATED APPROXIMATELY 3,500 FT WEST OF THE INTERSECTION OF FM 2951 AND PARK ROAD 36 IN PALO PINTO COUNTY, TEXAS  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: March 27, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 27, 2004 to March 27, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Carlie Konkol Phone: (361) 825-3422

#### 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? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

#### 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: 12/20/2004 ADMINORDER 2002-1018-MWD-E  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 319, SubChapter A 319.4  
Rqmt Prov: 2.b. PERMIT  
Monitoring and Reporting Requirements 1 PERMIT  
Description: Failure to monitor permit effluent parameters.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: 2.b. PERMIT  
Monitoring and Reporting Requirements 1 PERMIT  
Description: Failure to submit Discharge Monitoring Reports.  
Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 325, SubChapter A 325.4  
Rqmt Prov: 2.b. PERMIT  
OR9 PERMIT  
Description: Failure to maintain a "C" licensed chief wastewater operator on staff.  
Classification: Minor  
Citation: 30 TAC Chapter 317 317.4(a)(5)  
Description: Failure to have auiliary power.  
Classification: Minor  
Citation: 2D TWC Chapter 26, SubChapter A 26.0291(b)  
30 TAC Chapter 220, SubChapter B 220.21  
30 TAC Chapter 305, SubChapter C 305.53  
Description: Failure to pay 2003 Consolidated Water Quality Assessment fee and late fee.

- 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	04/12/2004	(328218)
2	06/14/2004	(493068)
3	07/26/2004	(493070)
4	07/26/2004	(493072)
5	10/20/2004	(493075)
6	12/10/2004	(493077)
7	12/10/2004	(493079)
8	12/10/2004	(493082)
9	01/31/2005	(343391)
10	02/06/2006	(493083)
11	02/06/2006	(493085)
12	02/10/2006	(493066)
13	03/08/2006	(493065)
14	03/08/2006	(493067)
15	03/08/2006	(493069)
16	03/08/2006	(493071)
17	03/08/2006	(493073)
18	03/08/2006	(493074)
19	03/08/2006	(493076)
20	03/08/2006	(493078)
21	03/08/2006	(493080)
22	03/08/2006	(493081)
23	03/08/2006	(493084)
24	03/08/2006	(493086)
25	01/24/2007	(632174)
26	01/24/2007	(632176)
27	01/24/2007	(632178)
28	01/24/2007	(632179)
29	07/19/2007	(632181)
30	08/23/2007	(568429)
31	11/01/2007	(632173)
32	11/01/2007	(632175)
33	11/01/2007	(632177)
34	11/01/2007	(632180)
35	11/01/2007	(632182)
36	11/01/2007	(632183)
37	11/01/2007	(632184)
38	11/01/2007	(632185)
39	11/01/2007	(632186)
40	11/01/2007	(632187)
41	11/01/2007	(632189)
42	11/01/2007	(632191)
43	11/15/2007	(600793)
44	12/03/2007	(632188)
45	12/27/2007	(632190)
46	01/07/2008	(677492)
47	01/14/2008	(677493)
48	02/20/2008	(677490)
49	02/20/2008	(677491)
50	02/22/2008	(677489)
51	03/12/2008	(696247)
52	04/23/2008	(696248)
53	05/19/2008	(696249)
54	07/07/2008	(717905)
55	07/21/2008	(717906)
56	09/15/2008	(717907)
57	09/30/2008	(733203)
58	10/20/2008	(733204)
59	11/21/2008	(733205)
60	12/29/2008	(733206)
61	01/16/2009	(733207)
62	03/20/2009	(725977)

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

Date:	03/31/2004	(493068)	CN601047731
Self Report?	YES	Classification:	Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (493072) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2004 (493075) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (493077) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (493079) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (493082) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (493083) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (493085) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (493065) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (493067) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (493074) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (493076) CN601047731  
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2005 (493078) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (493080) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (632178) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (632180) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (632183) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/24/2007 (568429) CN601047731  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter A 319.7©  
 WQ14173-001 PERMIT  
 Description: Failure to submit monthly discharge monitoring reports (DMRs) to the TCEQ Compliance Monitoring Team.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 WQ14173-001 PERMIT  
 Description: Failure to comply with the permit limit for total residual chlorine (TRC) maximum of 4.0

Date: 08/31/2007 (632184) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (632186) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (677489) CN601047731  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (696247) CN601047731  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2008 (696248) CN601047731  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (717905) CN601047731  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (733205) CN601047731  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2008 (733206) CN601047731  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/26/2009 (737825)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
WQ14173-001 PERMIT  
Description: Failure by Scenic Point Northview to maintain adequate safeguards to prevent discharge of untreated or inadequately treated wastes during electrical power failure.

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
2D TWC Chapter 26, SubChapter A 26.121(b)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
2D TWC Chapter 26, SubChapter A 26.121(d)  
2D TWC Chapter 26, SubChapter A 26.121(e)  
30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)(2)  
WQ14173-001 PERMIT  
Description: Failure to prevent the unauthorized discharge of wastewater in the collection system.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
WQ14173-001 PERMIT  
Description: Failure to report sanitary sewer overflows to the TCEQ.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ14173-001 PERMIT  
Description: Failure to comply with the total chlorine residual effluent maximum limit of 4.0 mg/L.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 319, SubChapter A 319.11(d)  
Description: Failure to measure flow appropriately.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ14173-001 PERMIT  
Description: Failure to comply with the effluent permit limits for NH3N, TSS, and TCR.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Description: Failure to maintain protection and alarms at lift stations.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter D 305.65  
Description: Failure to submit renewal permit application in a timely manner.

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  
SCENIC POINT NORTHVIEW, INC.  
RN101917458

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0527-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 Scenic Point Northview, Inc. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 3,500 feet west of the intersection of Farm-to-Market Road 2951 and Park Road 36 in Palo Pinto County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 27, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nineteen Thousand Seven Hundred Sixty Dollars (\$19,760) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Eight Hundred Eight Dollars

(\$15,808) of the administrative penalty and Three Thousand Nine Hundred Fifty-Two Dollars (\$3,952) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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, the Respondent is alleged to have failed to comply with permitted effluent limitations at Outfall 001A, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014173001, Interim Effluent Limitations and Monitoring Requirements No. 2, as documented by a record review of self-reported data on February 3, 2009 and shown in the following table.

<b>EFFLUENT TABLE</b>		
Monitoring Periods	Permit Effluent Limits	
	Total Residual Chlorine Minimum 1.0 mg/L	Total Residual Chlorine Maximum 4.0 mg/L
August 2007	0.90	8.40
September 2007	C	8.40
January 2008	0.70	C
February 2008	C	4.10
March 2008	0.80	C
May 2008	C	4.10

mg/L – Milligrams per Liter	C – Compliant
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### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Scenic Point Northview, Inc., Docket No. 2009-0527-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. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014173001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Sedler  
\_\_\_\_\_  
For the Executive Director

8/6/2009  
\_\_\_\_\_  
Date

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]  
\_\_\_\_\_  
Signature

6/17/09  
\_\_\_\_\_  
Date

JOHN D. SELZER  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Scenic Point Northview, Inc.

AUTHORIZED REPRESENTATIVE  
\_\_\_\_\_  
Title

**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.

