

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0969-MWD-E TCEQ ID: RN101609972 CASE NO.: 37802**  
**RESPONDENT NAME: Rocky Point Estate Land Trust**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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> Rocky Point MHP Flower Mound, 4601 Shiloh Road, Flower Mound, Denton 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 November 30, 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 149, (512) 239-0735; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Corey Donaldson, Managing Member, Rocky Point Estate Land Trust, 1927 Harbor Boulevard, #610, Costa Mesa, California 92627  <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> April 8, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 29, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with the permitted effluent limitations for total ammonia nitrogen and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013732001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit the discharge monitoring reports ("DMRs") for the monitoring periods ending December 31, 2007, May 31, 2008, June 30, 2008, July 31, 2008, August 31, 2008, September 30, 2008, October 31, 2008, and November 30, 2008 by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0013732001, Monitoring and Reporting Requirements No. 1].</p> <p>3) Failure to submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013732001, Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$17,756</p> <p><b>Total Deferred:</b> \$0  <input 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> \$17,756</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>Findings Orders Justification:</b> The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent submitted the missing DMRs on June 15, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the monitoring period ending July 31, 2008;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a;</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013732001, 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; and</p> <p>d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a and c.</p>

Additional ID No(s): TX0123552 WQ0013732001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	1-Jun-2009	Screening	18-Jun-2009	EPA Due	
	PCW	18-Jun-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Rocky Point Estate Land Trust		
Reg. Ent. Ref. No.	RN101609972		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37802	No. of Violations	4
Docket No.	2009-0969-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Charlie Konkol
		EC's Team	Enforcement Team 3
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: An enhancement is recommended for twelve monthly self-reported effluent violations, two Notice of Violations ("NOV") with same or similar violations, and one final enforcement order containing a denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

**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: Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly impact the penalty amount and to prevent the double-enhancement of the penalty amount for the same violations that were 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: No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**Screening Date** 18-Jun-2009

**Docket No.** 2009-0969-MWD-E

**PCW**

**Respondent** Rocky Point Estate Land Trust

Policy Revision 2 (September 2002)

**Case ID No.** 37802

PCW Revision October 30, 2009

**Reg. Ent. Reference No.** RN101609972

**Media [Statute]** Water Quality

**Enf. Coordinator** Carlie Konkol

### Compliance History Worksheet

>> **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)	14	70%
	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 judgments 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)** 90%

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

No

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

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

Average Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

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

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 90%

<b>Screening Date</b> 18-Jun-2009	<b>Docket No.</b> 2009-0969-MWD-E														
<b>Respondent</b> Rocky Point Estate Land Trust	<b>PCW</b> <small>Policy Revision 2 (September 2002)</small>														
<b>Case ID No.</b> 37802	<small>PCW Revision October 30, 2008</small>														
<b>Reg. Ent. Reference No.</b> RN101609972															
<b>Media [Statute]</b> Water Quality															
<b>Enf. Coordinator</b> Carlie Konkol															
<b>Violation Number</b> 1															
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013732001, Effluent Limitations and Monitoring Requirements No. 1														
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as documented during a record review on April 8, 2009, and shown in the attached Effluent Violation Table.														
<b>Base Penalty</b> \$10,000															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>															
<b>Harm</b>															
<b>OR</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:25%;">Major</td> <td style="width:25%;">Moderate</td> <td style="width:25%;">Minor</td> <td style="width:10%;"></td> </tr> <tr> <td>Actual</td> <td style="text-align: center;">x</td> <td></td> <td></td> <td rowspan="2" style="vertical-align: middle;"><b>Percent</b> 50%</td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Major	Moderate	Minor		Actual	x			<b>Percent</b> 50%	Potential			
	Major	Moderate	Minor												
Actual	x			<b>Percent</b> 50%											
Potential															
<b>&gt;&gt; Programmatic Matrix</b>															
<b>Falsification</b>															
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				<b>Percent</b> 0%											
<b>Matrix Notes</b>	A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.														
<b>Adjustment</b> \$5,000															
<b>\$5,000</b>															
<b>Violation Events</b>															
Number of Violation Events	1														
	30														
	Number of violation days														
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td style="text-align: center;">x</td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event	
daily															
weekly															
monthly	x														
quarterly															
semiannual															
annual															
single event															
<b>Violation Base Penalty</b> \$5,000															
One monthly event is recommended for the month of April 2008.															
<b>Good Faith Efforts to Comply</b>															
0.0% Reduction															
<b>\$0</b>															
	Before NOV    NOV to EDRP/Settlement Offer														
Extraordinary															
Ordinary															
N/A	x    (mark with x)														
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.														
<b>Violation Subtotal</b> \$5,000															
<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>														
Estimated EB Amount	\$1,482														
	<b>Violation Final Penalty Total</b> \$9,098														
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$9,098															

## Economic Benefit Worksheet

**Respondent** Rocky Point Estate Land Trust  
**Case ID No.** 37802  
**Reg. Ent. Reference No.** RN101609972  
**Media** Water Quality  
**Violation No.** 1

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

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
**Item Description:** 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	\$10,000	1-Feb-2008	15-Mar-2010	2.12	\$71	\$1,412
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)**

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** \$1,482

<b>Screening Date</b> 18-Jun-2009	<b>Docket No.</b> 2009-0969-MWD-E	<b>PCW</b>
<b>Respondent</b> Rocky Point Estate Land Trust		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37802		<i>PCW Revision October 30, 2009</i>
<b>Reg. Ent. Reference No.</b> RN101609972		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Carrie Konkol		
<b>Violation Number</b> 2		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 306.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013732001, Effluent Limitations	
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as documented during a record review on April 8, 2009, and shown in the attached Effluent Violation Table.	
	<b>Base Penalty</b>	\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
	<b>Harm</b>	
	Release    Major    Moderate    Minor	
<b>OR</b>	Actual	x
	Potential	
	<b>Percent</b>	10%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification    Major    Moderate    Minor	
		Percent
		0%
<b>Matrix Notes</b>	A simplified model was used to evaluate carbonaceous biochemical oxygen demand and ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.	
	<b>Adjustment</b>	\$9,000
		\$1,000
<b>Violation Events</b>		
	Number of Violation Events	3
		213
		Number of violation days
	mark only one with an x	
	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	
	<b>Violation Base Penalty</b>	\$3,000
	Three quarterly events are recommended for the quarters containing the months of February, March, May, July and August 2008.	
<b>Good Faith Efforts to Comply</b>		
	0.0% Reduction	\$0
	Before NOV    NOV to EDPRP/Settlement Offer	
	Extraordinary	
	Ordinary	
	N/A	x (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>	
	Estimated EB Amount	\$0
	<b>Violation Final Penalty Total</b>	\$5,459
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
		\$5,459

## Economic Benefit Worksheet

**Respondent** Rocky Point Estate Land Trust  
**Case ID No.** 37802  
**Reg. Ent. Reference No.** RN101609972  
**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
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit for violation #1.

**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

\$0

**TOTAL**

\$0



<b>Screening Date</b> 18-Jun-2009	<b>Docket No.</b> 2008-0969-MWD-E																			
<b>Respondent</b> Rocky Point Estate Land Trust	<b>PCW</b> <small>Policy Revision 2 (September 2002)</small>																			
<b>Case ID No.</b> 37802	<small>PCW Revision October 30, 2008</small>																			
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<b>Media [Statute]</b> Water Quality																				
<b>Enf. Coordinator</b> Carlie Konkol																				
<b>Violation Number</b> 3																				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0013732001, Monitoring and Reporting Requirements No. 1																			
<b>Violation Description</b>	Failed to timely submit the discharge monitoring report ("DMR") for the monitoring periods ending December 31, 2007, May 31, 2008, June 30, 2008, July 31, 2008, August 31, 2008, September 30, 2008, October 31, 2008, and November 30, 2008 by the 20th day of the following month, as documented during a record review on April 8, 2009.																			
<b>Base Penalty</b>	\$10,000																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																				
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	Major	Moderate	Minor																	
Falsification			x	<b>Percent</b> 1%																
<b>Matrix Notes</b>	At least 70% of the permit requirement was met.																			
<b>Adjustment</b>	\$9,900																			
	\$100																			
<b>Violation Events</b>																				
Number of Violation Events	8																			
	515 Number of violation days																			
mark only one with an x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td></td></tr> <tr><td style="text-align: center;">weekly</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td></td></tr> <tr><td style="text-align: center;">quarterly</td><td></td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;">x</td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual		single event	x					
daily																				
weekly																				
monthly																				
quarterly																				
semiannual																				
annual																				
single event	x																			
<b>Violation Base Penalty</b>	\$800																			
	Eight single events are recommended.																			
<b>Good Faith Efforts to Comply</b>																				
	10.0% Reduction																			
	Before NOV    NOV to EDRRP/Settlement Offer																			
Extraordinary																				
Ordinary	x																			
N/A	(mark with x)																			
<b>Notes</b>	The Respondent returned to compliance June 15, 2009.																			
<b>Violation Subtotal</b>	\$720																			
<b>Economic Benefit (EB) for this violation</b>																				
<b>Estimated EB Amount</b>	\$14																			
<b>Statutory Limit Test</b>																				
<b>Violation Final Penalty Total</b>	\$1,379																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b>																				
\$1,379																				

### Economic Benefit Worksheet

**Respondent** Rocky Point Estate Land Trust  
**Case ID No.** 37802  
**Reg. Ent. Reference No.** RN101609972  
**Media** Water Quality  
**Violation No.** 3

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

**Item Cost**    **Date Required**    **Final Date**    **Yrs**    **Interest Saved**    **Onetime Costs**    **EB Amount**  
**Item Description** 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	\$200	20-Jan-2008	15-Jun-2009	1.40	\$14	n/a	\$14
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 cost to properly prepare and submit the DMRs. Date Required is the date the first missing DMR was due and the Final Date is the 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**    **\$200**    **TOTAL**    **\$14**

<b>Screening Date</b> 18-Jun-2009	<b>Docket No.</b> 2009-0969-MWD-E	<b>PCW</b>
<b>Respondent</b> Rocky Point Estate Land Trust	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37802	<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101609972		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Carle Konkol		
<b>Violation Number</b> 4		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0013732001, Sludge Provisions	
<b>Violation Description</b>	Failed to submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, as documented during the April 8, 2009 record review.	
<b>Base Penalty</b>		\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
<b>Harm</b>		
<b>OR</b>	<b>Release</b>	Major      Moderate      Minor
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>
<b>Percent</b>		0%
<b>&gt;&gt; Programmatic Matrix</b>		
<b>Falsification</b>		
Major      Moderate      Minor		
<input type="text"/> <input checked="" type="text"/> <input type="text"/>		
<b>Percent</b>		10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.	
<b>Adjustment</b>		\$9,000
		\$1,000
<b>Violation Events</b>		
<b>Number of Violation Events</b>	1	<b>Number of violation days</b>
	290	
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text"/>
<b>Violation Base Penalty</b>		\$1,000
One single event is recommended.		
<b>Good Faith Efforts to Comply</b>		
<b>0.0% Reduction</b>		\$0
<small>Before NOV      NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	
Ordinary	<input type="text"/>	
N/A	x	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.	
<b>Violation Subtotal</b>		\$1,000
<b>Economic Benefit (EB) for this violation</b>		
<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$6	<b>Violation Final Penalty Total</b>
		\$1,820
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,820

## Economic Benefit Worksheet

**Respondent** Rocky Point Estate Land Trust  
**Case ID No.** 37802  
**Reg. Ent. Reference No.** RN101609972  
**Media** Water Quality  
**Violation No.** 4

<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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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	\$100	1-Sep-2008	1-Dec-2009	1.25	\$6	n/a	\$6
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 cost to prepare and submit the annual sludge report. The Date Required is the date the 2008 sludge report was due 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**

<b>Approx. Cost of Compliance</b>	\$100	<b>TOTAL</b>	\$6
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Rocky Point Estate Land Trust  
Docket No. 2009-0969-MWD-E  
TPDES Permit No. WQ0013732001

EFFLUENT TABLE				
Monitoring Periods	Permit Effluent Limits			
	Total Ammonia Nitrogen Daily Average Loading 1.5 lbs/day	Total Ammonia Nitrogen Daily Average Concentration 3.0 mg/L	Total Ammonia Nitrogen Daily Maximum Concentration 15.0 mg/L	5-Day CBOD Daily Average Concentration 10 mg/L
February 2008	C	13.20	22.00	11.37
March 2008	4.17	14.16	23.00	C
April 2008	6.75	22.67	36.00	C
May 2008	3.02	22.30	34.00	C
July 2008	C	9.28	17.00	C
August 2008	2.30	4.64	43.0	C

CBOD	Carbonaceous Biochemical Oxygen Demand
lbs/day	Pounds per Day
mg/L	Milligrams per Liter
C	Compliant



# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602877839	Rocky Point Estate Land Trust	Classification: AVERAGE	Rating: 15.21
Regulated Entity:	RN101609972	ROCKY POINT MHP FLOWER MOUND	Classification: AVERAGE	Site Rating: 15.21

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

Location: 4601 SHILOH RD, FLOWER MOUND, TX, 75022  
 TCEQ Region: REGION 04 - DFW METROPLEX  
 Date Compliance History Prepared: June 15, 2009  
 Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 15, 2004 to June 15, 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/operator of the site during the compliance period? | Yes  |
| 3. If Yes, who is the current owner/operator?  | OWNOPR Rocky Point Estate Land Trust                               |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ?   | OWN CMH Parks, Inc. dba Raintree Acres Mobile Home Park            |
| 5. When did the change(s) in owner or operator occur?  | 05/24/2005 OWN CMH Parks, Inc. dba Raintree Acres Mobile Home Park |
| 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: 11/19/2007 ADMINORDER 2007-0481-MWD-E  
 Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: Effluent Limits PERMIT  
 Description: Failed to comply with permit effluent limits.

- 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  | 06/17/2004 | (328652) |
| 2  | 07/16/2004 | (367845) |
| 3  | 08/20/2004 | (367846) |
| 4  | 08/27/2004 | (367843) |
| 5  | 08/27/2004 | (367847) |
| 6  | 08/27/2004 | (367848) |
| 7  | 08/27/2004 | (367851) |
| 8  | 08/27/2004 | (367852) |
| 9  | 08/27/2004 | (367853) |
| 10 | 09/23/2004 | (390494) |
| 11 | 10/20/2004 | (367850) |
| 12 | 11/22/2004 | (390495) |

13	12/20/2004	(390496)
14	01/21/2005	(390497)
15	02/23/2005	(390492)
16	03/21/2005	(390493)
17	04/22/2005	(427962)
18	05/20/2005	(427963)
19	01/19/2006	(439457)
20	08/18/2006	(509345)
21	03/22/2007	(539994)
22	08/05/2008	(682642)
23	04/23/2009	(741581)
24	05/29/2009	(742048)

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

Date:	07/31/2004	(367846)	CN602877839	
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	(390494)	CN602877839	
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	(367850)	CN602877839	
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	(390495)	CN602877839	
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	(390492)	CN602877839	
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	(390493)	CN602877839	
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:	01/20/2006	(439457)	CN602877839	
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(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:	02/28/2008		CN602877839	
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:	03/31/2008	CN602877839	
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:	04/30/2008	CN602877839	
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:	05/31/2008	CN602877839	
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:	07/31/2008	CN602877839	
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:	08/05/2008	(682642) CN602877839	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d)		
Description:	TPDES PERMIT Failure to maintain a certified operator with the proper certification levels at the plant and collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES PERMIT		
Description:	Failure to maintain compliance with the self-monitored effluent limitations for fecal coliforms, CBOD5, TSS, NH3-N, pH, and DO.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.5(b) TPDES PERMIT		
Description:	Failure to collect the required effluent samples.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TPDES PERMIT		
Description:	Failure to submit noncompliance notification as required by the permit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(c)		
Description:	TPDES PERMIT Failure to submit the 2006 - 2007 annual sludge report.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) TPDES PERMIT		
Description:	Failure to submit discharge monitoring reports (DMRs) as required.		
Date:	08/31/2008	CN602877839	
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

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 ESTATE LAND TRUST  
RN101609972

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0969-MWD-E**

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 Estate Land Trust ("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 presented this agreement to the Commission.

The Respondent understands they have certain procedural rights at certain points in the enforcement process, including, but not limited to, 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 Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility at 4601 Shiloh Road in Flower Mound, Denton 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. During a record review on April 8, 2009, TCEQ staff documented the following effluent exceedances from the monthly self-reported discharge monitoring reports ("DMR"):

EFFLUENT TABLE				
Monitoring Periods	Permit Effluent Limits			
	Total Ammonia Nitrogen Daily Average Loading 1.5 lbs/day	Total Ammonia Nitrogen Daily Average Concentration 3.0 mg/L	Total Ammonia Nitrogen Daily Maximum Concentration 15.0 mg/L	5-Day CBOD Daily Average Concentration 10 mg/L
February 2008	C	13.20	22.00	11.37
March 2008	4.17	14.16	23.00	C
April 2008	6.75	22.67	36.00	C
May 2008	3.02	22.30	34.00	C
July 2008	C	9.28	17.00	C
August 2008	2.30	4.64	43.0	C

CBOD	Carbonaceous Biochemical Oxygen Demand
lbs/day	Pounds per Day
mg/L	Milligrams per Liter
C	Compliant

4. During a record review on April 8, 2009, TCEQ staff documented that the Respondent did not timely submit the DMRs for the monitoring periods ending December 31, 2007, May 31, 2008, June 30, 2008, July 31, 2008, August 31, 2008, September 30, 2008, October 31, 2008, and November 30, 2008.
5. During a record review on April 8, 2009, TCEQ staff documented that the Respondent did not submit the annual sludge report for the monitoring period ending July 31, 2008.
6. The Respondent received notice of the violations on June 3, 2009.
7. The Executive Director recognizes that the Respondent submitted the missing DMRs on June 15, 2009.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013732001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on April 8, 2009.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit the DMRs for the monitoring periods ending December 31, 2007, May 31, 2008, June 30, 2008, July 31, 2008, August 31, 2008, September 30, 2008, October 31, 2008, and November 30, 2008 by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0013732001, Monitoring and Reporting Requirements No. 1, as documented during a record review on April 8, 2009.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013732001, Sludge Provisions, as documented during a record review on the April 8, 2009.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Seventeen Thousand Seven Hundred Fifty-Six Dollars (\$17,756) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Seventeen Thousand Seven Hundred Fifty-Six Dollar (\$17,756) administrative penalty.

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Seventeen Thousand Seven Hundred Fifty-Six Dollars (\$17,756) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made

payable to "TCEQ" and shall be sent with the notation "Re: Rocky Point Estate Land Trust, Docket No. 2009-0969-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 Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the monitoring period ending July 31, 2008, to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, as described in Ordering Provision No. 2.d below;

c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013732001, 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 in accordance with Ordering Provision No. 2.d. below; and

d. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.c. 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 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."

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.

9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*J. D. S. Miller*  
For the Executive Director

11/2/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Rocky Point Estate Land Trust. I am authorized to agree to the attached Agreed Order on behalf of Rocky Point Estate Land Trust, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Rocky Point Estate Land Trust waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

*Corey*  
Signature

9/25/2009  
Date

Corey Donaldson  
Name (Printed or typed)  
Authorized Representative of  
Rocky Point Estate Land Trust

Managing Member  
Title  
Rocky Point Estates MHP

**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.

