

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0079-EAQ-E **TCEQ ID:** RN105135156 **CASE NO.:** 38996
RESPONDENT NAME: Southerland Communities RR Ranch, Ltd.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input 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 checked="" type="checkbox"/> EDWARDS AQUIFER
<p>SITE WHERE VIOLATION(S) OCCURRED: Terra Mont, south side of Babcock Road 1,000 feet north of Kyle Seale Parkway, Bexar County</p> <p>TYPE OF OPERATION: Residential development</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on October 1, 2009, alleging the development was not constructed in accordance with an approved Edwards Aquifer Contributing Zone Plan ("CZP"). There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 28, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Jecha, P.G., Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Dan Mullins, Acquisitions and Planning Director, Southerland Communities RR Ranch, Ltd., 110 River Crossing Boulevard, Suite 1, Spring Branch, Texas 78070 Mr. B. Jay Patterson, Member, SA RR Ranch, LLC, General Partner of Southerland Communities RR Ranch, Ltd., 9670 Ranch Road 12, Wimberley, Texas 78676 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: October 1, 2009</p> <p>Date of Investigation Relating to this Case: October 30, 2009 and November 9, 2009</p> <p>Date of NOE Relating to this Case: January 7, 2010</p> <p>Background Facts: This was a complaint and records review investigation.</p> <p>WATER</p> <p>1) Failure to obtain approval for a modification of a previously approved Edwards Aquifer CZP prior to development of land previously identified in a CZP as undeveloped. Specifically, approximately one acre of land was disturbed when the amenity center was constructed at a location that was different from the location shown in the CZP approved on March 6, 2007 [30 TEX. ADMIN. CODE § 213.23(i)(4) and CZP No. 13-07010401 Standard Condition No. 3].</p> <p>2) Failure to comply with the terms of the approved CZP. Specifically, documentation of recordation of the March 6, 2007 TCEQ approval letter in the county deed records was not submitted to the San Antonio Regional Office [30 TEX. ADMIN. CODE § 213.23(j), CZP No. 13-07010401 Special Condition No. 5].</p> <p>3) Failure to comply with the terms of the approved CZP. Specifically, notification of intent to commence construction was not submitted to the San Antonio Regional Office [30 TEX. ADMIN. CODE § 213.23(j), CZP No. 13-07010401 Standard Condition No. 4].</p>	<p>Total Assessed: \$5,106</p> <p>Total Deferred: \$1,021 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$4,085</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Submit an administratively complete CZP modification application for the amenity center including the associated application fee for the Site;</p> <p>ii. Submit documentation of recordation of the March 6, 2007 TCEQ approval letter in the county deed records to the San Antonio Regional Office;</p> <p>b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the CZP modification within 30 days after the date of such requests or by any other deadline specified in writing; and</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): 13-07010401



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Jan-2010	Screening	14-Jan-2010	EPA Due	
	PCW	20-Jan-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Southerland Communities RR Ranch, Ltd.		
Reg. Ent. Ref. No.	RN105135156		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38996	No. of Violations	2
Docket No.	2010-0079-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha, P.G.
		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	\$5,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7 \$0
Notes	No change due to compliance history.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$0
Economic Benefit	0.0% Enhancement	Subtotal 6 \$0
Total EB Amounts	\$258	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,700	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	2.1%	Adjustment \$106
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes	Recommended enhancement to recover avoided costs associated with the economic benefit of Violation No. 2.	
	Final Penalty Amount	\$5,106
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$5,106
DEFERRAL	20.0% Reduction	Adjustment -\$1,021
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$4,085

Screening Date 14-Jan-2010

Docket No. 2010-0079-EAQ-E

PCW

Respondent Southerland Communities RR Ranch, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 38996

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105135156

Media [Statute] Edwards Aquifer

Enf. Coordinator Thomas Jecha, P.G.

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)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 0%

>> 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

No change due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 14-Jan-2010	Docket No. 2010-0079-EAQ-E	PCW				
Respondent Southerland Communities RR Ranch, Ltd.		<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 38996		<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN105135156						
Media [Statute] Edwards Aquifer						
Enf. Coordinator Thomas Jecha, P.G.						
Violation Number	1					
Rule Cite(s)	30 Tex. Admin. Code § 213.23(i)(4) and Edwards Aquifer Contributing Zone Plan ("CZP") No. 13-07010401 Standard Condition No. 3					
Violation Description	Failed to obtain approval for a modification of a previously approved CZP prior to development of land previously identified in a CZP as undeveloped. Specifically, approximately one acre of land was disturbed when the amenity center was constructed at a location that was different from the location shown in the CZP approved on March 6, 2007.					
Base Penalty		\$10,000				
>> Environmental, Property and Human Health Matrix						
OR	Harm			Percent		
	Release	Major	Moderate		Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	0%	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor	Percent	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>		10%
Matrix Notes	100% of the rule requirement was not met.					
Adjustment					\$9,000	
					\$1,000	
Violation Events						
Number of Violation Events		3	Number of violation days		66	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty			
	weekly	<input type="text"/>				\$3,000
	monthly	x				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	<input type="text"/>				
Three monthly events are recommended from the November 9, 2009 investigation until the January 14, 2010 case screening date.						
Good Faith Efforts to Comply			0.0% Reduction		\$0	
	<small>Before NOV NOV to EDRP/Settlement Offer</small>					
Extraordinary	<input type="text"/>	<input type="text"/>				
Ordinary	<input type="text"/>	<input type="text"/>				
N/A	x	(mark with x)				
Notes	The Respondent does not meet the good faith criteria for this violation.					
Violation Subtotal					\$3,000	
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		\$148	Violation Final Penalty Total		\$3,064	
This violation Final Assessed Penalty (adjusted for limits)					\$3,064	

Economic Benefit Worksheet

Respondent Southerland Communities RR Ranch, Ltd.
Case ID No. 38996
Reg. Ent. Reference No. RN105135156
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
6.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description: No commas or \$.

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				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	\$3,500	9-Nov-2009	13-Sep-2010	0.84	\$148	n/a	\$148
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to revise the CZP, pay fees, and obtain approval of the modifications. The date required is the investigation date and the final date is the expected date of compliance.

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

\$3,500

TOTAL

\$148

Screening Date 14-Jan-2010	Docket No. 2010-0079-EAQ-E	PCW															
Respondent Southerland Communities RR Ranch, Ltd.		<small>Policy Revision 2 (September 2002)</small>															
Case ID No. 38996		<small>PCW Revision October 30, 2008</small>															
Reg. Ent. Reference No. RN105135156																	
Media [Statute] Edwards Aquifer																	
Enf. Coordinator Thomas Jecha, P.G.																	
Violation Number 2																	
Rule Cite(s)	30 Tex. Admin. Code § 213.23(j), CZP No. 13-07010401 Special Condition No. 5 and Standard Condition No. 4																
Violation Description	Failed to comply with the terms of the approved CZP. Specifically, documentation of recordation of the March 6, 2007 TCEQ approval letter in the county deed records and notification of intent to commence construction were not submitted to the San Antonio Regional Office.																
	Base Penalty	\$10,000															
>> Environmental, Property and Human Health Matrix																	
OR	Release	Harm															
		Major Moderate Minor															
	Actual	<input type="text"/>	<input type="text"/>														
	Potential	<input type="text"/>	<input type="text"/>														
		Percent	0%														
>> Programmatic Matrix																	
	Falsification	Major Moderate Minor															
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="text"/>														
		Percent	10%														
Matrix Notes	100% of the rule requirement was not met.																
	Adjustment	\$9,000															
		Penalty	\$1,000														
Violation Events																	
	Number of Violation Events	2	Number of violation days														
		77															
<small>mark only one with an x</small>	<table border="1" style="width:100%; 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 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 checked="" type="checkbox"/></td></tr> </table>	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="checkbox"/>	Violation Base Penalty	\$2,000
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="checkbox"/>																
	Two single events are recommended.																
Good Faith Efforts to Comply		0.0% Reduction	\$0														
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>															
	Extraordinary	<input type="text"/>	<input type="text"/>														
	Ordinary	<input type="text"/>	<input type="text"/>														
	N/A	<input checked="" type="checkbox"/> (mark with x)	<input type="text"/>														
Notes	The Respondent does not meet the good faith criteria for this violation.																
	Violation Subtotal	\$2,000															
Economic Benefit (EB) for this violation		Statutory Limit Test															
	Estimated EB Amount	\$110	Violation Final Penalty Total														
			\$2,042														
	This violation Final Assessed Penalty (adjusted for limits)		\$2,042														

Economic Benefit Worksheet

Respondent Southerland Communities RR Ranch, Ltd.
Case ID No. 38996
Reg. Ent. Reference No. RN105135156
Media Edwards Aquifer
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	30-Oct-2009	13-Sep-2010	0.87	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to submit documentation of deed reconation to the San Antonio Regional Office. The date required is the investigation date and the final date is the expected 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)	\$100	30-Oct-2009	14-Jan-2010	1.13	\$6	\$100	\$106

Notes for AVOIDED costs

Estimated cost to submit notification of intent to commence construction to the San Antonio Regional Office. The date required is the investigation date and the final date is the case screening date.

Approx. Cost of Compliance

\$200

TOTAL

\$110

Compliance History Report

Customer/Respondent/Owner-Operator: CN603137498 Southerland Communities RR Ranch, Ltd. Classification: AVERAGE Rating: 1.50

Regulated Entity: RN105135156 TERRA MONT Classification: HIGH Site Rating:0.00

ID Number(s): STORMWATER PERMIT TXR15NW24
EDWARDS AQUIFER REGISTRATION 13-07010401

Location: S SIDE OF BABCOCK RD 1000 FT N OF KYLE SEALE
PKWY, BEXAR CO.

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: January 26, 2010

Agency Decision Requiring Compliance Enforcement

Compliance Period: January 14, 2005 to January 14, 2010

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

Name: Thomas Jecha Phone: 239 - 2576

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? Terra Mont Property Owners Assoc.
4. If Yes, who was/were the prior owner(s)/operator(s) ?
Southerland Communities RR Ranch Ltd
5. When did the change(s) in owner or operator occur?
9/3/2009
- 6 Rating Date: 9/1/2009 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.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/15/2007 (536233)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHERLAND COMMUNITIES RR
RANCH, LTD.
RN105135156

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0079-EAQ-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 Southerland Communities RR Ranch, Ltd. ("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 owned and developed approximately 291 acres of land located on the south side of Babcock Road, 1,000 feet north of Kyle Seale Parkway, in Bexar County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 January 12, 2010.
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 Five Thousand One Hundred Six Dollars (\$5,106) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Four Thousand Eighty-Five Dollars (\$4,085) of the administrative penalty and One Thousand Twenty-One Dollars (\$1,021) 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 of the Site during development, the Respondent is alleged to have:

1. Failed to obtain approval for a modification of a previously approved Edwards Aquifer Contributing Zone Plan ("CZP") prior to development of land previously identified in a CZP as undeveloped, in violation of 30 TEX. ADMIN. CODE § 213.23(i)(4) and CZP No. 13-07010401 Standard Condition No. 3, as documented during an investigation conducted on November 9, 2009. Specifically, approximately one acre of land was disturbed when the amenity center was constructed at a location that was different from the location shown in the CZP approved on March 6, 2007.
2. Failed to comply with the terms of the approved CZP, in violation of 30 TEX. ADMIN. CODE § 213.23(j), CZP No. 13-07010401 Special Condition No. 5, as documented during a record review conducted on October 30, 2009. Specifically, documentation of recordation of the March 6, 2007 TCEQ approval letter in the county deed records was not submitted to the San Antonio Regional Office.
3. Failed to comply with the terms of the approved CZP, in violation of 30 TEX. ADMIN. CODE § 213.23(j), CZP No. 13-07010401 Standard Condition No. 4, as documented during a record review conducted on October 30, 2009. Specifically, notification of intent to commence construction was not submitted to the San Antonio Regional Office.

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: Southerland Communities RR Ranch, Ltd., Docket No. 2010-0079-EAQ-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 undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Submit an administratively complete CZP modification application for the amenity center including the associated application fee for the Site to:

Edwards Aquifer Protection Program
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480
 - ii. Submit documentation of recordation of the March 6, 2007 TCEQ approval letter in the county deed records to the San Antonio Regional Office at the address shown above;
 - b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the CZP modification within 30 days after the date of such requests or by any other deadline specified in writing; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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 Site 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
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



For the Executive Director

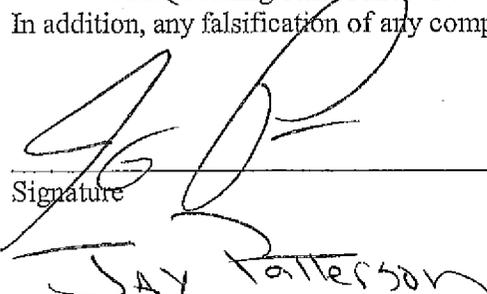
6/10/2010
Date

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

4/22/10
Date

JAY PATTERSON
Name (Printed or typed)
Authorized Representative of
Southerland Communities RR Ranch, Ltd.

President
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.