

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2007-0126-WQ-E **TCEQ ID:** RN104454954 **CASE NO.:** 32434  
**RESPONDENT NAME:** Hawkins Homes, 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> Hawkins Homes, 876 South Village Creek Parkway, Lumberton, Hardin County</p> <p><b>TYPE OF OPERATION:</b> 8-acre single-family residential construction site</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> No complaints were received. 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 June 11, 2007. 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. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364 ; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468  <b>Respondent:</b> Mr. Thomas Michael Hawkins, President, Hawkins Homes, Inc., 100 Lynn Drive, Lumberton, Texas 77657  <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 checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> December 15, 2006</p> <p><b>Date of NOE Relating to this Case:</b> January 4, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Two violations were documented.</p> <p><b>WATER</b></p> <p>1) Failed to obtain authorization to discharge stormwater associated with construction activities [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].</p> <p>2) Failed to prevent the unauthorized discharge of sediment into or adjacent to water of the state. Specifically, the investigator observed approximately two acres of uncovered soil on the Site that, based on topography, drained through a culvert and ultimately to a ditch located at 1507 South Main Street. No control measures were in place at the Site and an accumulation of sediments was observed in the ditch [TEX. WATER CODE § 26.121(a)].</p>	<p><b>Total Assessed:</b> \$3,210</p> <p><b>Total Deferred:</b> \$642  <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> \$2,568</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:</p> <p>a. Within 10 days after the effective date of this Agreed Order, remove and properly dispose of the accumulated sediments in the ditch located at 1507 South Main Street;</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.;</p> <p>c. Within 30 days after the effective date of this Agreed Order, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter to comply with the General Construction Permit requirements, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c).;</p> <p>d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision c.; and</p> <p>e. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a. and c.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Jan-2007	<b>Screening</b>	26-Jan-2007	<b>EPA Due</b>	
	<b>PCW</b>	29-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Hawkins Homes, Inc.
<b>Reg. Ent. Ref. No.</b>	RN104454954
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32434	<b>No. of Violations</b>	2
<b>Docket No.</b>	2007-0126-WQ-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Lynley Doyen
<b>Multi-Media</b>		<b>EC's Team</b>	EnforcementTeam 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	7% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$210
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Notes: The penalty is enhanced because the Respondent received one NOV with violations same or similar to those cited in this action and one NOV with violations not same or similar to those cited in this action.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

<b>Total EB Amounts</b>	\$251	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$2,600	<b>*Capped at the Total EB \$ Amount</b>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,210
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	\$3,210
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$3,210
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	-\$642
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$2,568
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Screening Date 26-Jan-2007

Docket No. 2007-0126-WQ-E

PCW

Respondent Hawkins Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32434

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104454954

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

### 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)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> 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

The penalty is enhanced because the Respondent received one NOV with violations same or similar to those cited in this action and one NOV with violations not same or similar to those cited in this action.

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

Screening Date 26-Jan-2007

Docket No. 2007-0126-WQ-E

PCW

Respondent Hawkins Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32434

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104454954

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description Failed to obtain authorization to discharge stormwater associated with construction activities.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 42 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$2,000

Two monthly events are recommended from the date of the investigation (December 15, 2006) through the date of screening (January 26, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$235

Violation Final Penalty Total \$2,140

This violation Final Assessed Penalty (adjusted for limits) \$2,140

## Economic Benefit Worksheet

**Respondent:** Hawkins Homes, Inc.  
**Case ID No.:** 32434  
**Reg. Ent. Reference No.:** RN104454954  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$2,000	16-Dec-2005	31-Jul-2007	1.6	\$11	\$216	\$227
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$100	16-Dec-2005	31-Jul-2007	1.6	\$8	n/a	\$8
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs:

Estimated cost to obtain a stormwater permit and to develop and implement a stormwater pollution prevention plan. Date required is the date when a permit first should have been obtained. Final date is the expected date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance

\$2,100

**TOTAL**

\$235

Screening Date 26-Jan-2007

Docket No. 2007-0126-WQ-E

PCW

Respondent Hawkins Homes, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32434

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN104454954

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a)

Violation Description

Failed to prevent the unauthorized discharge of sediment into or adjacent to water of the state. Specifically, during the December 15, 2006 investigation, the investigator observed approximately two acres of uncovered soil on the site that, based on topography, drained through a culvert and ultimately to a ditch located at 1507 South Main Street. No control measures were in place at the site and an accumulation of sediments was observed in the ditch.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

42 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on the date of the investigation (December 15, 2006) to the date of screening (January 26, 2007).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$1,070

This violation Final Assessed Penalty (adjusted for limits) \$1,070

## Economic Benefit Worksheet

**Respondent** Hawkins Homes, Inc.  
**Case ID No.** 32434  
**Reg. Ent. Reference No.** RN104454954  
**Media** Water Quality  
**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
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### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$500	15-Dec-2006	31-Jul-2007	0.6	\$16	n/a	\$16
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to remove and properly dispose of the sediments in the ditch. Date required is the investigation date. Final date is the expected date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$16

# Compliance History

Customer/Respondent/Owner-Operator: CN602740144 HAWKINS HOMES, INC. Classification: AVERAGE Rating: 2.75  
Regulated Entity: RN104454954 HAWKINS HOMES Classification: AVERAGE Site Rating: 2.75  
ID Number(s):  
Location: 876 S VILLAGE CREEK PKWY, LUMBERTON, HARDIN CO, TX Rating Date: September 01 08  
Repeat Violator: NO  
TCEQ Region: REGION 10 – BEAUMONT  
Date Compliance History Prepared: January 26, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 26, 2002 to January 26, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Lynley Doyen Phone: 512-239-1364

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership 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

### 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 01/04/2007 (535002)  
2 01/18/2006 (450744)  
3 12/23/2004 (343506)  
4 11/23/2004 (341495)

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

Date: 01/18/2006 (450744)

Self Report? NO

Classification: Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: Failure by Mike Hawkins Homes to obtain a Construction General Permit TXR150000 (CGP) to authorize the discharge of storm water.

Self Report? NO

Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Description: Failure by Mr. Hawkins to prevent the unauthorized discharge of sediment into a roadside ditch.

Date: 11/23/2004 (341495)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter B 111.201  
5C THC Chapter 382, SubChapter A 382.085(a)

Description: Failure to prevent unauthorized outdoor burning from a business.

- 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  
HAWKINS HOMES, INC.  
RN104454954**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-0126-WQ-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 Hawkins Homes, Inc. ("Hawkins Homes") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Hawkins Homes appear before the Commission and together stipulate that:

1. Hawkins Homes owns and operates an 8-acre single-family residential construction site at 876 South Village Creek Parkway in Lumberton, Hardin County, Texas (the "Site").
2. Hawkins Homes 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 Hawkins Homes agree that the Commission has jurisdiction to enter this Agreed Order, and that Hawkins Homes is subject to the Commission's jurisdiction.
4. Hawkins Homes received notice of the violations alleged in Section II ("Allegations") on or about January 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Hawkins Homes of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Three Thousand Two Hundred Ten Dollars (\$3,210) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Hawkins Homes has paid Two Thousand Five Hundred Sixty-Eight Dollars (\$2,568) of the administrative penalty and Six Hundred Forty-Two Dollars (\$642) is deferred contingent upon Hawkins Homes' 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 Hawkins Homes fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Hawkins Homes 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 Hawkins Homes 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 Hawkins Homes 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, Hawkins Homes is alleged to have:

1. Failed to obtain authorization to discharge stormwater associated with construction activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on December 15, 2006.
2. Failed to prevent the unauthorized discharge of sediment into or adjacent to water of the state, in violation of TEX. WATER CODE § 26.121(a), as documented during an investigation conducted on December 15, 2006. Specifically, the investigator observed approximately two acres of uncovered soil on the Site that, based on topography, drained through a culvert and ultimately to a ditch located at 1507 South Main Street. No control measures were in place at the Site and an accumulation of sediments was observed in the ditch.



### III. DENIALS

Hawkins Homes generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Hawkins Homes pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Hawkins Homes' 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: Hawkins Homes, Inc., Docket No. 2007-0126-WQ-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 Hawkins Homes shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order, remove and properly dispose of the accumulated sediments in the ditch located at 1507 South Main Street;
  - b. Within 15 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., in accordance with Ordering Provision No. 2.e. below;
  - c. Within 30 days after the effective date of this Agreed Order, develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter to comply with the General Construction Permit requirements, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c) to:

Wastewater Permitting Section  
Water Quality Division, MC 148  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
  - d. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c., in accordance with Ordering Provision No. 2.e. below; and
  - e. 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  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Hawkins Homes. Hawkins Homes 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 Hawkins Homes 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, Hawkins Homes' failure to comply is not a violation of this Agreed Order. Hawkins Homes shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Hawkins Homes shall notify the Executive Director within seven days after Hawkins Homes 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 Hawkins Homes shall be made in writing to the Executive Director. Extensions are not effective until Hawkins Homes 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 Hawkins Homes 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.



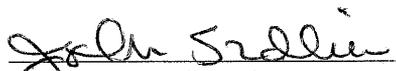
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
  
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Hawkins Homes, or three days after the date on which the Commission mails notice of the Order to Hawkins Homes, 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

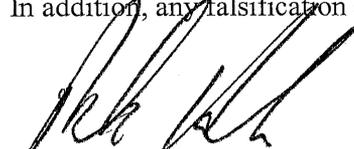
8/23/2007  
Date

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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

4-3-07  
Date

Mike Hawkins  
Name (Printed or typed)  
Authorized Representative of  
Hawkins Homes, Inc.

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.

Handwritten text at the top of the page, including a date and possibly a recipient's name. The text is very faint and difficult to decipher.

Main body of handwritten text, consisting of several lines of cursive script. The content is illegible due to fading.

Handwritten signature or name on the left side of the page.

Handwritten signature or name on the right side of the page.

Additional handwritten text or a date located below the signature on the right side.