

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-1025-MWD-E **TCEQ ID:** RN101612984 **CASE NO.:** 25773

RESPONDENT NAME: City of Point

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: East Plant, 127 Locust Street, Point, Rains County</p> <p>TYPE OF OPERATION: Wastewater treatment</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 28, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team I, MC 169, (512) 239-4493; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: The Honorable James P. Kerr, Mayor, City of Point, P.O. Box 459, Point, Texas 75472 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 type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 28, 2005</p> <p>Date of NOE Relating to this Case: May 3, 2005 (NOE)</p> <p>Background Facts: This was a routine record review. Four violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10964001, Final Effluent Limitations and Monitoring Requirements 1 and 6, and Tex. Water Code § 26.121(a)].</p> <p>2) Failed to submit annual sludge reports for the monitoring period ending July 31, 2004 by September 1, 2004 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 10964001, Sludge Provisions, Section II, F. Reporting Requirements].</p> <p>3) Failed to timely submit the 5-day Biochemical Oxygen Demand data at Outfall 001A for the monitoring periods ending October 31, 2003 and November 30, 2003 and maximum daily flow at Outfall 001A for the monitoring period ending December 31, 2003 to the Enforcement Division [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10964001, Monitoring and Reporting Requirements, No. 1].</p> <p>4) Failed to submit the Discharge Monitoring Report at Outfall 001A for the monitoring period ending March 31, 2004 by April 20, 2004 to the Enforcement Division [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10964001, Monitoring and Reporting Requirements, No. 1].</p>	<p>Total Assessed: \$12,773</p> <p>Total Deferred: \$2,555 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$443 (the remaining \$9,775 to be paid in 23 payments of \$425 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the City has submitted the required 5-day Biochemical Oxygen Demand and maximum daily flow data on the monthly Discharge Monitoring Report (DMR) for February 2005.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the March 2004 DMR and all the annual sludge reports delinquent for the Facility; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10964001. The certification shall include supporting documentation including receipts, and/or other record to demonstrate compliance.</p>

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

TCEQ	DATES	Assigned <input type="text" value="09-May-2005"/>			
	PCW	<input type="text" value="08-Jun-2005"/>	Screening <input type="text" value="26-May-2005"/>	EPA Due <input type="text"/>	

RESPONDENT/FACILITY INFORMATION	
Respondent <input type="text" value="City of Point"/>	
Reg. Ent. Ref. No. <input type="text" value="RN101612984"/>	
Facility/Site Region <input type="text" value="5-Tyler"/>	Major/Minor Source <input type="text" value="Minor Source"/>

CASE INFORMATION	
Enf./Case ID No. <input type="text" value="25773"/>	No. of Violations <input type="text" value="4"/>
Docket No. <input type="text" value="2005-1025-MWD-E"/>	Order Type <input type="text" value="1660"/>
Media Program(s) <input type="text" value="Water Quality"/>	Enf. Coordinator <input type="text" value="Joseph Daley"/>
Multi-Media <input type="text"/>	EC's Team <input type="text" value="Enforcement Team 8"/>
Admin. Penalty \$ Limit Minimum <input type="text" value="\$0"/>	Maximum <input type="text" value="\$10,000"/>

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 <input type="text" value="\$5,300"/>												
ADJUSTMENTS (+/-) TO SUBTOTAL 1													
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.													
Compliance History <input type="text" value="141% Enhancement"/>	Subtotals 2, 3, & 7 <input type="text" value="\$7,473"/>												
Notes: <input type="text" value="The respondent self reported 27 months of effluent violations. The respondent also received three NOV's with other violations on April 13, 2001, December 22, 2004, and March 1, 2005."/>													
Culpability <input type="text" value="No"/> <input type="text" value="0% Enhancement"/>	Subtotal 4 <input type="text" value="\$0"/>												
Notes: <input type="text" value="The respondent does not meet the culpability criteria."/>													
Good Faith Effort to Comply <input type="text" value="0% Reduction"/>	Subtotal 5 <input type="text" value="\$0"/>												
<table style="width: 100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><i>(mark with a small x)</i></td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>	
	Before NOV	NOV to EDPRP/Settlement Offer											
Extraordinary	<input type="text"/>	<input type="text"/>											
Ordinary	<input type="text"/>	<input type="text"/>											
N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>											
Notes: <input type="text" value="The respondent is not yet in compliance."/>													
Economic Benefit <input type="text" value="0% Enhancement*"/>	Subtotal 6 <input type="text" value="\$0"/>												
<table style="width: 100%; border-collapse: collapse;"> <tr> <td>Total EB Amounts</td> <td style="text-align: right;"><input type="text" value="\$240"/></td> </tr> <tr> <td>Approx. Cost of Compliance</td> <td style="text-align: right;"><input type="text" value="\$2,800"/></td> </tr> </table>	Total EB Amounts	<input type="text" value="\$240"/>	Approx. Cost of Compliance	<input type="text" value="\$2,800"/>	*Capped at the Total EB \$ Amount								
Total EB Amounts	<input type="text" value="\$240"/>												
Approx. Cost of Compliance	<input type="text" value="\$2,800"/>												
SUM OF SUBTOTALS 1-7	Final Subtotal <input type="text" value="\$12,773"/>												
OTHER FACTORS AS JUSTICE MAY REQUIRE <input type="text"/>	Adjustment <input type="text" value="\$0"/>												
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)													
Notes: <input type="text"/>													
	Final Penalty Amount <input type="text" value="\$12,773"/>												
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty <input type="text" value="\$12,773"/>												
DEFERRAL <input type="text" value="20%"/> Reduction	Adjustment <input type="text" value="-\$2,555"/>												
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)													
Notes: <input type="text" value="Deferral offered for expedited settlement."/>													
PAYABLE PENALTY	<input type="text" value="\$10,218"/>												

Screening Date 26-May-2005 **Docket No.** 2005-1025-MWD-E **PCW**
Respondent City of Point *Policy Revision 2 (September 2002)*
Case ID No. 25773 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101612984
Media [Statute] Water Quality
Enf. Coordinator Joseph Daley

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 (<i>number of NOVs meeting criteria</i>)	27	135%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	<i>Please Enter Yes or No</i> 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) 141%

>> 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 respondent self reported 27 months of effluent violations. The respondent also received three NOVs with other violations on April 13, 2001, December 22, 2004, and March 1, 2005.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 141%

Screening Date 26-May-2005	Docket No. 2005-1025-MWD-E	PCW
Respondent City of Point		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 25773		<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No. RN101612984		
Media [Statute] Water Quality		
Enf. Coordinator Joseph Daley		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 10964001, Final Effluent Limitations and Monitoring Requirements 1 and 6	
Secondary Rule Cite(s)	Tex. Water Code § 26.121(a)	
Violation Description	Failure to comply with permitted effluent limits for Total Suspended Solids (TSS), Dissolved Oxygen (DO), 5-day Biochemical Oxygen Demand (BOD5) and Flow at Outfall 001A (detailed in the attached Effluent Limit Violation Table), as documented during a record review investigation conducted on April 28, 2005.	

Base Penalty

>> **Environmental, Property and Human Health Matrix**

	Harm			
	Major	Moderate	Minor	
Release				
Actual	<input type="text"/>	<input type="text"/>	X	Percent <input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

A simplified model was utilized to evaluate the values for BOD5 and flow to determine whether the discharged amount of the pollutant exceeded the levels protective of human health or environmental receptors. The amounts discharged at the time of the violations were insignificant and did not exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily <input type="text"/> monthly <input type="text"/> quarterly <input checked="" type="checkbox"/> semiannual <input type="text"/> annual <input type="text"/> single event <input type="text"/>
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Violation Base Penalty

Three quarterly events are recommended to include the months of September 2003 and February, June, July, and August 2004.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Point
 Case ID No. 25773
 Reg. Ent. Reference No. RN101612984
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$700	30-Sep-2003	28-Feb-2006	2.4	\$85	n/a	\$85
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated annual cost for additional oversight and sampling which might have reduced or alleviated the exceedances. Calculated from the first month of effluent noncompliance to the estimated month of effluent 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 TOTAL

Screening Date	26-May-2005	Docket No.	2005-1025-MWD-E	PCW
Respondent	City of Point			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	25773			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101612984			
Media [Statute]	Water Quality			
Enf. Coordinator	Joseph Daley			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Texas Admin. Code § 305.125(17) and TPDES Permit No. 10964001, Sludge Provisions, Section II, F. Reporting Requirements"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to submit annual sludge reports for the monitoring period ending July 31, 2004 by September 1, 2004, as documented during the record review investigation conducted on April 28, 2005."/>			

Base Penalty

>> **Environmental, Property and Human Health Matrix**

	Harm			
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	daily	<input type="text"/>
	monthly	<input type="text"/>
mark only one	quarterly	<input type="text"/>
use a small x	semiannual	<input type="text"/>
	annual	<input checked="" type="text" value="x"/>
	single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Point
 Case ID No. 25773
 Reg. Ent. Reference No. RN101612984
 Media [Statute] 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
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	\$700	01-Sep-2004	31-Jan-2006	1.4	\$50	n/a	\$50
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount required to submit all the annual sludge reports to the Enforcement Division, calculated from the date of noncompliance to the estimated 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 TOTAL

Screening Date 26-May-2005 **Docket No.** 2005-1025-MWD-E **PCW**
Respondent City of Point *Policy Revision 2 (September 2002)*
Case ID No. 25773 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101612984
Media [Statute] Water Quality
Enf. Coordinator Joseph Daley
Violation Number 3

Primary Rule Cite(s) 30 Texas Admin. Code § 305.125(1) and TPDES Permit No. 10964001, Monitoring and Reporting Requirements, No. 1
Secondary Rule Cite(s)

Violation Description
 Failure to timely submit the 5-day Biochemical Oxygen Demand data at Outfall 001A for the monitoring periods ending October 31, 2003 and November 30, 2003 and maximum daily flow at Outfall 001A for the monitoring period ending December 31, 2003 to the Enforcement Division, as documented during the record review investigation conducted on April 28, 2005.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes The respondent complied with more than 70% of the rule requirement.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 3

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$300

Three single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$44

Violation Final Penalty Total \$723

This violation Final Assessed Penalty (adjusted for limits) \$723

Economic Benefit Worksheet

Respondent City of Point
 Case ID No. 25773
 Reg. Ent. Reference No. RN101612984
 Media [Statute] Water Quality
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$700	20-Nov-2003	20-Feb-2005	1.3	\$44	n/a	\$44
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated amount required to submit all the effluent results at Outfall 001A to the Enforcement Division, calculated from the date of noncompliance to the 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 **\$700**

TOTAL \$44

Screening Date	26-May-2005	Docket No.	2005-1025-MWD-E	PCW
Respondent	City of Point			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	25773			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN101612984			
Media [Statute]	Water Quality			
Enf. Coordinator	Joseph Daley			
Violation Number	<input type="text" value="4"/>			
Primary Rule Cite(s)	<input type="text" value="30 Texas Admin. Code § 305.125(1) and TPDES Permit No. 10964001, Monitoring and Reporting Requirements, No. 1"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to submit the Discharge Monitoring Report (DMR) at Outfall 001A for the monitoring period ending March 31, 2004 by April 20, 2004 to the Enforcement Division, as documented during the record review investigation conducted on April 28, 2005."/>			
		Base Penalty	<input type="text" value="\$10,000"/>	

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	x

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Point
 Case ID No. 25773
 Reg. Ent. Reference No. RN101612984
 Media [Statute] Water Quality
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$700	20-Apr-2004	31-Jan-2006	1.8	\$62	n/a	\$62
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated amount required to submit the DMR for Outfall 001A to the Enforcement Division, calculated from the date of noncompliance to the estimated date of compliance.

Item Description	Yrs	Interest Saved	Onetime Costs	EB Amount
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 **\$700**

TOTAL \$62

Compliance History

Customer/Respondent/Owner-Operator: CN600681993 City of Point Classification: AVERAGE Rating: 1.790
Regulated Entity: RN101612984 EAST PLANT Classification: AVERAGE Site Rating: 1.38
ID Number(s): WASTEWATER PERMIT TPDES0071579
WASTEWATER PERMIT WQ0010964001
WASTEWATER LICENSING LICENSE WQ0010964001

Location: 127 LOCUST ST, POINT, TX, 75472 Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: June 16, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 25, 2000 to May 25, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Joseph Daley Phone: 239-3308

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
6. Comments:

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.)

2 11/18/2002 (197797)
4 12/03/2001 (197796)
6 10/21/2002 (197795)
8 10/24/2001 (197794)
10 10/30/2000 (197793)
12 09/18/2002 (197792)
14 09/24/2001 (197791)
16 08/19/2002 (197790)
18 08/23/2001 (197789)
20 08/24/2000 (197788)
22 07/19/2002 (197787)
24 07/30/2001 (197786)
26 07/20/2000 (197785)
28 02/22/2005 (371471)
30 06/18/2002 (197784)
32 07/03/2001 (197783)
34 02/18/2004 (312200)
36 04/12/2004 (312201)
38 06/16/2000 (197782)
40 02/28/2005 (385666)
42 05/17/2002 (197781)

44 05/12/2003 (312202)
 46 04/03/2001 (38877)
 48 05/31/2001 (197780)
 50 02/28/2005 (385667)
 52 06/23/2003 (312203)
 54 02/28/2005 (385668)
 56 07/21/2003 (312204)
 58 04/24/2003 (197778)
 60 02/28/2005 (385669)
 62 08/29/2003 (312205)
 64 04/22/2002 (197777)
 66 10/01/2003 (312206)
 68 01/20/2004 (385670)
 70 02/28/2005 (385671)
 72 06/15/2004 (358969)
 74 04/16/2001 (197776)
 76 10/24/2003 (312207)
 78 12/09/2003 (254407)
 80 08/31/2004 (358970)
 82 08/31/2004 (358971)
 84 11/24/2003 (312208)
 86 04/13/2005 (377279)
 88 12/29/2003 (312209)
 90 04/28/2005 (378847)
 92 08/31/2004 (358972)
 94 03/14/2003 (197773)
 96 03/18/2002 (197772)
 98 09/17/2004 (358973)
 100 04/16/2001 (197771)
 102 02/17/2003 (197770)
 104 02/22/2002 (197769)
 106 02/16/2001 (197768)
 108 05/04/2005 (372255)
 110 01/24/2003 (197803)
 112 03/03/2003 (24883)
 114 02/04/2002 (197802)
 116 02/12/2001 (197801)
 118 12/13/2002 (197800)
 120 12/21/2001 (197799)
 122 01/18/2001 (197798)

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

Date: 09/30/2001 (197794)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2000 (197793)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2001 (197789)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2000 (197788)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2001 (197786)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 02/29/2004 (312201)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 01/30/2005 (385666)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 04/13/2001 (38877)
 Self Report? NO Classification: Moderate
 Rqmt Prov: OP IA
 Description: FAILURE TO COMPLY

Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2003 (312202)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2003 (197778)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2004 (385667)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2003 (312203)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2002 (197777)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2004 (385668)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2003 (312204)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2001 (197776)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2004 (385669)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2003 (312206)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2004 (385671)
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/30/2003 (312207) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2004 (358971) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2001 (197771) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2004 (358972) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/31/2004 (358973) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2002 (197769) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2001 (197768) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/22/2004 (343740) Classification: Minor
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT IA
 Description: Failure to ensure the facility and all of its systems of collection, treatment and disposal are properly operated and maintained.
 Date: 03/01/2005 (371471) Classification: Minor
 Self Report? NO
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT IA
 Description: Failure to ensure the facility and all of its systems of collection, treatment and disposal are properly operated and maintained.
 Date: 12/31/2000 (197801) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2000 (197798) Classification: Moderate
 Self Report? YES
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF POINT
RN101612984

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1025-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The City owns and operates a domestic wastewater treatment system at 127 Locust Street in Point, Rains County, Texas ("the Facility").
2. The City 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 City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about May 8, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Seven Hundred Seventy-Three Dollars (\$12,773) is assessed by the Commission in settlement of the violations alleged in Section II (Allegations). The City has paid Four Hundred Forty-Three Dollars (\$443) of the administrative penalty and Two Thousand Five Hundred Fifty-Five Dollars (\$2,555) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to

timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Seven Hundred Seventy-Five Dollars (\$9,775) of the administrative penalty shall be payable in 23 monthly payments of Four Hundred Twenty-Five Dollars (\$425) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

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 City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has submitted the required 5-day Biochemical Oxygen Demand and maximum daily flow data on the monthly Discharge Monitoring Report (DMR) for February 2005.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with permitted effluent limits as detailed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10964001, Final Effluent Limitations and Monitoring Requirements 1 and 6, and TEX. WATER CODE § 26.121(a), as documented during a record review investigation conducted on April 28, 2005.

Month/Year	DO Minimum of 4.0 mg/L	BOD5 Daily Average of 10.00 lbs/day	TSS Daily Average of 30.00 lbs/day	Flow Daily Average of 0.04000 MGD
September 2003	c	c	c	0.23500 MGD
February 2004	3.9 mg/L	c	c	c
June 2004	3.0 mg/L	20.20 lbs/day	c	0.06175 MGD
July 2004	c	26.32 lbs/day	42.72 lbs/day	0.12300 MGD
August 2004	1.7 mg/L	c	c	c

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
dissolved oxygen	DO
5-day biochemical oxygen demand	BOD5
total suspend solids	TSS
pounds per day	lbs/day
million gallons per day	MGD

2. Failed to submit annual sludge reports for the monitoring period ending July 31, 2004 by September 1, 2004, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 10964001, Sludge Provisions, Section II, F. Reporting Requirements, as documented during a record review investigation conducted on April 28, 2005.
3. Failed to timely submit the 5-day Biochemical Oxygen Demand data at Outfall 001A for the monitoring periods ending October 31, 2003 and November 30, 2003 and maximum daily flow at Outfall 001A for the monitoring period ending December 31, 2003 to the Enforcement Division, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10964001, Monitoring and Reporting Requirements, No. 1, as documented during a record review investigation conducted on April 28, 2005.
4. Failed to submit the Discharge Monitoring Report at Outfall 001A for the monitoring period ending March 31, 2004 by April 20, 2004 to the Enforcement Division, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 10964001, Monitoring and Reporting Requirements, No. 1, as documented during a record review investigation conducted on April 28, 2005.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and the City'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: City of Point, Docket No. 2005-1025-MWD-E" to:

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

2. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, submit the March 2004 Discharge Monitoring Report and all the annual sludge reports delinquent for the Facility in accordance with the requirements of TPDES Permit No. 10964001. These reports shall be submitted to:

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

- b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 10964001. The certification shall include supporting documentation including receipts, and/or other record to demonstrate compliance, 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 person who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

Work Leader
Team 5, Section III
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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 City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City 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 City 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 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 City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdewi

For the Executive Director

10/4/07

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.

John

Signature

2/13/2007

Date

James P Kerr

Name (Printed or typed)
Authorized Representative of
City of Point

Mayor

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.

