

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2007-0082-PWS-E TCEQ ID NO.: RN101391407 ENF CASE NO.: 32269**

**RESPONDENT NAME: CITY OF POINT**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" 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 type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> County Road 1470 off Farm-to-Market Road 47, Rains County</p> <p><b>TYPE OF OPERATION:</b> Public Water System</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is record of one additional pending enforcement action 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 September 10, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Dinniah M. Chahin, Litigation Division, MC 175, (512) 239-0617                  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>TCEQ Enforcement Coordinator:</b> Mr. J. Craig Fleming, Air Enforcement Section, MC 219, (512) 239-5806  <b>TCEQ Regional Contact:</b> Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174  <b>Respondent:</b> The Honorable James P. Kerr, Mayor of City of Point, P.O. Box 459, Point, Texas 75472  <b>Respondent's Attorney:</b> Not represented by counsel.</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(s) of Investigation(s) Relating to this Case: July 1, 2006</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: February 2, 2005, October 31, 2005, December 21, 2005, January 30, 2006, March 22, 2006, July 31, 2006, (NOVs) and October 27, 2006 (NOE)</p> <p><b>Background Facts:</b> A settlement agreement was reached with the Respondent, and a signed Agreed Order was received on June 26, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PWS</b></p> <p>1) Failed to perform routine bacteriological sampling of the public water supply in November 2004 [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH &amp; SAFETY CODE § 341.033(d)].</p> <p>2) Failed to comply with the MCL for total coliform bacteria and failed to provide public notice for exceeding the MCL in October 2005, January 2006, and June 2006 [30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH &amp; SAFETY CODE § 341.031(a)].</p> <p>3) Failed to collect at least five routine samples the month following a total coliform positive result and failed to provide public notice of the failure to collect an appropriate number of routine samples in November 2005 and February 2006 [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A)].</p> <p>4) Failed to collect and submit four repeat samples following a total coliform-positive sample and failed to post public notice of the failure to collect and submit the appropriate number of additional samples in June 2006 [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].</p>	<p>Total Assessed: \$3,202</p> <p>Total Deferred: \$0 <input 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: \$300/\$2,902</p> <p>The Respondent has paid \$300 of the administrative penalty. The remaining amount of \$2,902 shall be payable in one monthly payment of \$202 and nine monthly payments of \$300 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor <input checked="" type="checkbox"/> N/A</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor <input type="checkbox"/> N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p><b>Findings Order Justification:</b> Three repeated enforcement actions over the prior five year period for the same violation or a substantial history of the same violation entity-wide.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Immediately, begin sampling for bacteriological contaminants.</p> <p>2) Within 10 days, implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply.</p> <p>3) Within 25 days, submit written, notarized certification that includes detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the above Ordering Provisions.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

DATES	Assigned	3-Jan-2007		
	PCW	19-Jan-2007	Screening	12-Jan-2007
		EPA Due		

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Point		
Reg. Ent. Ref. No.	RN101391407		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32269	No. of Violations	4
Docket No.	2007-0082-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** **Subtotals 2, 3, & 7**

Notes:

**Culpability** **Subtotal 4**

Notes:

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

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes:

**Total EB Amounts** **Subtotal 6**

**Approx. Cost of Compliance** **0% Enhancement\***

**\*Capped at the Total EB \$ Amount**

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount**

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

**DEFERRAL** **Adjustment**

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

Notes:

**PAYABLE PENALTY** **Final Assessed Penalty**

Screening Date 12-Jan-2007

Docket No. 2007-0082-PWS-E

PCW

Respondent City of Point

Policy Revision 2 (September 2002)

Case ID No. 32269

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101391407

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

### 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)	6	30%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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) 83%

>> Repeat Violator (Subtotal 3)

N/A

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 enhancement is due to 6 prior Notices of Violations (NOVs) for the same or similar violations, four dissimilar NOVs, one order with denial, and one order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 83%

Screening Date 12-Jan-2007

Docket No. 2007-0082-PWS-E

PCW

Respondent City of Point

Policy Revision 2 (September 2002)

Case ID No. 32269

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101391407

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(ii), and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to perform routine bacteriological sampling of the public water supply in November 2004.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

Failure to perform routine bacteriological monitoring of the public water supply could result in the public being exposed to significant amounts of bacteriological contamination which would exceed levels that are protective of human health.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One monthly event is recommended.

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.:** 32269  
**Reg. Ent. Reference No.:** RN101391407  
**Media:** Public Water Supply  
**Violation No.:** 1

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

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

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				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

NA

### 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]	\$50	1-Nov-2004	30-Nov-2004	0.0	\$0	\$50	\$50
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost include the amount to conduct monthly bacteriological sampling, and to provide results to the Commission. The date required was the first day of the month when the violation occurred. The Final Date is the last day of the month when the violation occurred.

Approx. Cost of Compliance

\$50

**TOTAL**

\$50

Screening Date 12-Jan-2007

Docket No. 2007-0082-PWS-E

PCW

Respondent City of Point

Policy Revision 2 (September 2002)

Case ID No. 32269

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101391407

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(f)(3), 290.122(b)(2)(A), and Tex. Health & Safety Code § 341.031(a)

Violation Description

Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform bacteria, and failed to provide public notice for exceeding the MCL in October 2005, January 2006 and June 2006.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Customers of the public water system have been exposed to a significant amount of pollutants which do not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

92 Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
single event		

Violation Base Penalty \$750

Three monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$325

Violation Final Penalty Total \$1,372

This violation Final Assessed Penalty (adjusted for limits) \$1,372

## Economic Benefit Worksheet

**Respondent:** City of Point  
**Case ID No.:** 32269  
**Reg. Ent. Reference No.:** RN101391407  
**Media:** Public Water Supply  
**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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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				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				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

NA

### 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)	\$300	1-Oct-2005	30-Jun-2006	1.7	\$25	\$300	\$325

Notes for AVOIDED costs

Estimated cost to ensure the MCL for total coliform bacteria is not exceeded, and the public notice is provided in a timely manner. The date required was the first day of the month when the violation occurred. The Final Date is the last day of the month when the violation occurred.

Approx. Cost of Compliance

\$300

TOTAL

\$325

Screening Date 12-Jan-2007

Docket No. 2007-0082-PWS-E

PCW

Respondent City of Point

Policy Revision 2 (September 2002)

Case ID No. 32269

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101391407

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(2)(F), and 290.122(c)(2)(A)

Violation Description Failed to collect at least five routine samples the month following a total coliform positive result, and failed to provide public notice of the failure to collect an appropriate number of routine samples in November 2005 and February 2006 .

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Customers of the public water supply could be exposed to pollutants which would exceed levels that are protective of human health as a result of the violations.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2 Number of violation days 58

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

Violation Base Penalty \$500

Two monthly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$212

Violation Final Penalty Total \$915

This violation Final Assessed Penalty (adjusted for limits) \$915

## Economic Benefit Worksheet

**Respondent** City of Point  
**Case ID No.** 32269  
**Reg. Ent. Reference No.** RN101391407  
**Media:** Public Water Supply  
**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
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				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				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

NA

### 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]	\$200	1-Nov-2005	28-Feb-2006	1.2	\$12	\$200	\$212
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost include the amount to collect at least five distribution bacteriological samples, to provide sampling results to the Commission, and provide public notification. The date required was the first day of the month when the violation occurred. The Final Date is the last day of the month when the violation occurred.

Approx. Cost of Compliance

\$200

TOTAL

\$212

Screening Date 12-Jan-2007

Docket No. 2007-0082-PWS-E

PCW

Respondent City of Point

Policy Revision 2 (September 2002)

Case ID No. 32269

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101391407

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)

Violation Description

Failed to collect and submit four repeat samples following a total coliform-positive sample, and failure to post public notice of the failure to collect and submit the appropriate number of additional samples in June 2006 .

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Customers of the pubic water supply could be exposed to pollutants which would exceed levels that are protective of human health as a result of the violations.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

30 Number of violation days

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

Violation Base Penalty \$250

One monthly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$457

This violation Final Assessed Penalty (adjusted for limits) \$457

## Economic Benefit Worksheet

**Respondent** City of Point  
**Case ID No.** 32269  
**Reg. Ent. Reference No.** RN101391407  
**Media** Public Water Supply  
**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
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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				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				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

NA

### 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]	\$100	1-Jun-2006	30-Jun-2006	0.0	\$0	\$100	\$100
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost include the amount to conduct repeat bacteriological sampling following a coliform found result, to provide sampling results to the Commission, and provide public notification. The date required was the first day of the month when the violation occurred. The Final Date is the last day of the month when the violation occurred.

Approx. Cost of Compliance

\$100

TOTAL

\$100

# Compliance History

Customer/Respondent/Owner-Operator: CN600681993 City of Point Classification: AVERAGE Rating: 1.00  
Regulated Entity: RN101391407 CITY OF POINT Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1900004  
WATER LICENSING LICENSE 1900004

Location: LOCATED ON CR 1470 OFF FM 47 IN RAINS CO

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: January 04, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 04, 2002 to January 04, 2007

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

Name: J. Craig Fleming Phone: (512) 239-5806

## 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.

1 Effective Date: 04/06/2002 ADMINORDER 2001-0499-PWS-E  
Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)  
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to meet the Agency's "Min. WS Cap. Req" for a treatment plant capacity of 0.6 gpm per connection under normal rated design flow.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(C)  
30 TAC Chapter 290, SubChapter D 290.45(e)(2)

Description: Failure to meet the Agency's "Min. WS Cap. Req" for a transfer pump capacity of 0.6 gpm per connection with the largest pump out of service.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to meet the Agency's "Min. WS Cap. Req" for service pump capacity by not providing each pump station or pressure plane with 2 or more pumps with a total cap of 2.0 gpm per connection, or a total cap of 1000 gpm and ability to meet peak demand

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(B)(iv)  
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to meet the Agency's "Min. WS Cap. Req" for the design capacity of filtration facilities based on the cumulative filter capacity.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(G)  
4G THC Chapter 321, SubChapter D 341.0315[G]

Description: Failure to meet this Agency's "Min. WS Cap. Req" for pressure maintenance facilities consisting of a pressure tank capacity of 20 gallons per connection.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for HAA5 in the Fourth Quarter of 2004 and the 1st quarter of 2005.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)

Description: VIOLATED THE MCL FOR HAA5 IN THE FIRST QUARTER OF 2005

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the MCL for TTHM in the Third and Fourth Quarters of 2004 and the First Quarter of 2005.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the MCL for TTHM in the Fourth Quarter of 2004.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)

Description: Violated the MCL for TTHM in the First Quarter of 2005.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 06/17/2005 (395515)  
N/A2 04/25/2003 (31210)  
3 07/31/2006 (532657)  
4 12/21/2005 (532076)  
5 01/30/2006 (532194)  
6 03/22/2006 (532545)  
7 06/27/2003 (282925)  
8 08/23/2004 (286799)  
9 08/31/2005 (406498)  
10 10/31/2005 (531659)  
11 02/02/2005 (531597)  
12 12/21/2006 (532859)  
13 05/01/2006 (459913)

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

1 Date: 07/31/2006 (532657)

Self Report? NO

Classification:  
Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: Failure to collect any repeats samples in 06/2006 following a coliform found result(s).

Self Report? NO

Classification:  
Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post a pn for not collecting any repeats samples in 06/2006 following a coliform found result(s).

Self Report? NO

Classification:  
Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

Description: Exceeded a Maximum Contaminant Level (MCL) violation in 06/2006.

Self Report? NO

Classification:  
Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)

- Description: Failure to post a pn for exceeding a Maximum Contaminant Level (MCL) violation in 06/2006.  
 2 Date: 04/28/2003 (31210)  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(3)  
 Description: Failure to obtain from the commission, permits for discharging wastes from water treatment processes.  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(C)  
 Description: Failure to have a acceptable backflow prevention device on the line to the chemical feed solution mixing chambers.  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(D)  
 Description: Failure to store dry chemicals above floor level in a separate, dry above-ground level room and protect against flooding or moisture from floors, walls  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)[G]  
 Description: Failure to provide adequate containment facilities for all liquid chemical storage tanks.  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)[G]  
 Description: Failure to provide identification of the influent, effluent, waste backwash, and chemical feed lines in the water plant by the use of labels or various colors of paint, at intervals no greater than five feet.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]  
 Description: Failure to initiate a maintenance program to improve the general appearance of all regulated entities and reduce costly repairs due to a lack of proper maintenance. This program should include the coating on the interior and exterior of the water treatment plant and the coating on the piping.
- 3 Date: 12/21/2005 (532076)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)  
 Description: Failure to collect all of the 5 distribution samples in 11/2005 following a coliform found month.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)  
 Description: Failure to post PN for not collecting all of the 5 distribution samples in 11/2005 following a coliform found month.
- 4 Date: 08/23/2004 (286799)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)[G]  
 Description: Failure to provide adequate containment facilities for all liquid chemical storage tanks.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]  
 Description: Failure to initiate a maintenance program to improve the general appearance of all regulated entities and reduce costly repairs due to a lack of proper maintenance. This program should include the coating on the interior and exterior of the water treatment plant and the coating on the piping.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to provide adequate coating of paint on the ground storage tank

- and elevated tank at Pump Station # 1.
- 5 Date: 01/30/2006 (532194)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 Description: Exceeded a maximum contaminant level (MCL) violation in 01/2006.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
 Description: Failure to post a PN for exceeding a maximum contaminant level (MCL) violation in 01/2006.
- 6 Date: 10/31/2005 (531659)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
 Description: Exceeded a maximum contaminant level (MCL) violation in 10/2005.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)  
 Description: Failure to post a PN for exceeding a maximum contaminant level (MCL) violation in 10/2005.
- 7 Date: 09/25/2006 (481584)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)  
 Description: Failure to provide adequate coating of paint on the ground storage tank and elevated tank at Pump Station # 1.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(3)[G]  
 Description: Floor around the chemical feed facilities has inadequate drainage.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(A)  
 Description: Failure to provide a raw water pump capacity of 0.6 gpm per connection largest pump out of service.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(h)(1)  
 30 TAC Chapter 290, SubChapter D 290.39(h)(3)  
 30 TAC Chapter 290, SubChapter D 290.39(h)[G]  
 Description: Failure to provide a copy of the TCEQ approval letter authorizing the construction of the 10,000 gallon (estimate, as no plans or specs are available for the Region's review) pressure (hydropneumatic) tank located at Pump Station #2.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(v)  
 Description: Failure to provide a copy of the calibration records for the water system's laboratory equipment as requested in the Exit Interview Form submitted to the water system by fax on 07/31/2006.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
 Description: Failure to inspect all the tanks annually.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain all distribution system lines in a watertight condition.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to provide a copy of the annual calibration record for the water system's electronic raw water intake meter, last calibration occurred on

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)

Description: Failure to provide containment for all liquid chemical storage tanks. Specifically, no containment was provided for the liquid ammonia sulfate (LAS) bulk and day tanks.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(15)[G]

Description: Failure to provide necessary laboratory equipment for making at least the following determinations: other tests deemed necessary for monitoring specific water quality problems such as manganese (Mn) or to evaluate specific water treatment processes

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to enclose the clearwell at the water plant within an intruder-resistant fence with lockable gates.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.112(e)(1)

Description: Failure to submit total organic carbon (TOC) reports to TCEQ, Water Supply Division, MC 155, PO Box 13087, Austin, Texas 78711-3087 by the tenth day of the month following the end of the reporting period.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121[G]

Description: Failure by the regulated entity to develop and maintain an up to date system Monitoring Plan.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(v)

Description: Failure to provide emergency power delivering water at a rate of 0.35 gallons per minute per connection to the distribution system in the event of the loss of normal power supply.

8 Date: 02/02/2005 (531597)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)

Description: Failure to collect any routine monitoring samples for 11/2004.

9 Date: 03/22/2006 (532545)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect all of the increased routine (5) samples in 02/2006 following a coliform found month.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)

Description: Failure to post pn for not collecting all of the increased routine (5) samples in 02/2006 following a coliform found month.

# Date: 09/09/2005 (406498)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]

Description: Failure to initiate a maintenance program to improve the general appearance of all regulated entities and reduce costly repairs due to a lack of proper maintenance. This program should include the coating on the

interior and exterior of the water treatment plant and the coating on the piping.

Self Report? NO

Classification:  
Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failure to provide adequate coating of paint on the ground storage tank and elevated tank at Pump Station # 1.

Self Report? NO

Classification:  
Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(e)(3)[G]

Description: Floor around the chemical feed facilities has inadequate drainage.

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,  
RN101391407**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-0082-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("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. HEALTH & SAFETY CODE ch. 341 and 30 TEX. ADMIN. CODE ch. 290. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

**FINDINGS OF FACT**

1. The City owns and operates a public water system located on County Road 1470 off Farm-to-Market Road 47, Rains County, Texas (the "Facility") that has 948 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on July 1, 2006, TCEQ staff documented that the City failed to perform routine bacteriological sampling of the public water supply in November 2004.

3. During a record review conducted on July 1, 2006, TCEQ staff documented that the City failed to comply with the Maximum Contaminant Level ("MCL") for total coliform bacteria and failed to provide public notice for exceeding the MCL in October 2005, January 2006, and June 2006.
4. During a record review conducted on July 1, 2006, TCEQ staff documented that the City failed to collect at least five routine samples the month following a total coliform positive result and failed to provide public notice of the failure to collect an appropriate number of routine samples in November 2005 and February 2006.
5. During a record review conducted on July 1, 2006, TCEQ staff documented that the City failed to collect and submit four repeat samples following a total coliform-positive sample and failed to post public notice of the failure to collect and submit the appropriate number of additional samples in June 2006.
6. The City received notice of the violations on or about November 1, 2006.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact No. 1, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, the City has failed to perform routine bacteriological sampling of the public water supply in November 2004, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Finding of Fact No. 3, the City has failed to comply with the MCL for total coliform bacteria and failed to provide public notice for exceeding the MCL in October 2005, January 2006, and June 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. As evidenced by Finding of Fact No. 4, the City has failed to collect at least five routine samples the month following a total coliform positive result and failed to provide public notice of the failure to collect an appropriate number of routine samples in November 2005 and February 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A).
5. As evidenced by Finding of Fact No. 5, the City has failed to collect and submit four repeat samples following a total coliform-positive sample and failed to post public notice of the

failure to collect and submit the appropriate number of additional samples in June 2006, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A).

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the City for violations of TEX. HEALTH & SAFETY CODE, TCEQ rules, and orders adopted under the Code.
7. An administrative penalty in the amount of three thousand two hundred two dollars (\$3,202.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The City has paid three hundred dollars (\$300.00) of the administrative penalty. The remaining amount of two thousand nine hundred two dollars (\$2,902.00) of the administrative penalty shall be payable in one monthly payment of two hundred two dollars (\$202.00) and nine monthly payments of three hundred dollars (\$300.00) each. The first monthly payment of two hundred two dollars (\$202.00) shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments of three hundred dollars (\$300.00) each shall each be paid not later than 30 days following the due date of the previous payment. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 of the terms of this Agreed Order.

### ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of three thousand two hundred two dollars (\$3,202.00) as set forth in Conclusion of Law No. 7 for violations of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be sent with the notation "Re: City of Point; Docket No. 2007-0082-PWS-E; Enforcement ID No. 32269" to:

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

2. The City shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, the City shall begin sampling for bacteriological contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109;
  - b. Within 10 days after the effective date of this Agreed Order, the City shall implement procedures to ensure that all necessary public notifications are provided in a timely manner to the customers of the water supply, as required by 30 TEX. ADMIN. CODE § 290.122; and
  - c. Within 25 days after the effective date of this Agreed Order, the City shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Paragraphs 2.a. and 2.b. 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

and

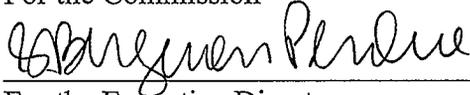
Noel Luper, Water Section Manager  
Texas Commission on Environmental Quality  
Tyler Regional Office  
2916 Teague Drive  
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. 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.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all terms and conditions set forth in this Agreed Order, whichever is later.
7. 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 the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, 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.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



\_\_\_\_\_  
For the Executive Director

8/29/07

\_\_\_\_\_  
Date

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

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

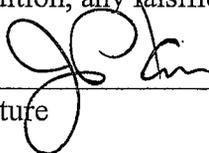
I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

I 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



\_\_\_\_\_  
Date

6/19/2007

\_\_\_\_\_  
Name (printed or typed)  
Authorized Representative  
City of Point

James P Kerr

\_\_\_\_\_  
Title

Mayor