

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1589-MWD-E TCEQ ID: RN102181963 CASE NO.: 31238

RESPONDENT NAME: City of Avinger

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: City of Avinger Wastewater Plant, approximately 0.4 mile north of the intersection of State Highway 155 and State Highway 49, Avinger, Cass County</p> <p>TYPE OF OPERATION: Domestic wastewater system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: No complaints were received. 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 June 18, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Jane W. Yarbrough, Mayor, City of Avinger, P.O. Box 356, Avinger, Texas 75630 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 of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 18, 2006</p> <p>Date of NOV/NOE Relating to this Case: August 28, 2006 (NOE)</p> <p>Background Facts: This was a routine record review. Three violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limits for biochemical oxygen demand, 5-day, pH, total suspended solids, and chlorine [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14399001 Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 3].</p> <p>2) Failed to timely submit the monthly discharge monitoring report ("DMR") for the period ending December 31, 2005 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 14399001 Monitoring and Reporting Requirements No. 1].</p> <p>3) Failed to timely submit the annual sludge report by September 1, 2005 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 14399001 Sludge Provisions].</p>	<p>Total Assessed: \$13,734</p> <p>Total Deferred: \$2,747 <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: \$2,745 (remaining \$8,242 to be paid in 26 monthly payments of \$317 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 implemented the following corrective measures at the Facility:</p> <p>a. On January 31, 2007, submitted the monthly DMR for December 2005; and</p> <p>b. On March 30, 2007, submitted the annual sludge report for the period ending July 31, 2005.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to, within 30 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with the effluent limits of TPDES Permit No. 14399001. The certification shall include detailed supporting documentation including receipts, and or other records to demonstrate compliance.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	05-Sep-2006	Screening	19-Sep-2006	EPA Due	
	PCW	09-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Avinger
Reg. Ent. Ref. No.	RN102181963
Facility/Site Region	5-Tyler
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	31238	No. of Violations	3
Docket No.	2006-1589-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Ruben Soto
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

	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"/>	(mark with a small x)

Notes

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	<input type="text" value="\$242"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$2,550"/>	

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

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

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

Notes

PAYABLE PENALTY

Screening Date 19-Sep-2006 **Docket No.** 2006-1589-MWD-E **PCW**
Respondent City of Avinger *Policy Revision 2 (September 2002)*
Case ID No. 31238 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102181963
Media [Statute] Water Quality
Enf. Coordinator Ruben Soto

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>)	49	245%
	Other written NOVs	0	0%
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	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%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 245%

>> **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 46 monthly effluent violations and received three NOVs with same or similar violations to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 245%

Screening Date 19-Sep-2006	Docket No. 2006-1589-MWD-E	PCW
Respondent City of Avinger	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31238	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102181963		
Media [Statute] Water Quality		
Enf. Coordinator Ruben Soto		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 14399001 Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 3.	
Secondary Rule Cite(s)		
Violation Description	Failure to comply with permitted effluent limits as detailed in the attached chart.	
Base Penalty		\$10,000

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor		
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Matrix Notes

A simplified model was utilized to evaluate the values for five-day biochemical oxygen demand (BOD5) to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids, pH and chlorine were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty

Four quarterly events are 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 Avinger
 Case ID No. 31238
 Reg. Ent. Reference No. RN102181963
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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				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)	\$2,000	31-May-2005	31-May-2007	2.0	\$200	n/a	\$200

Notes for DELAYED costs Estimated cost for additional oversight and sampling which may have alleviated or prevented the noncompliance. Date required is the first month of noncompliance. Final date is the anticipated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$2,000 TOTAL \$200

Screening Date	19-Sep-2006	Docket No.	2006-1589-MWD-E	PCW
Respondent	City of Avinger			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31238			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102181963			
Media [Statute]	Water Quality			
Enf. Coordinator	Ruben Soto			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 14399001 Monitoring and Reporting Requirements No. 1."/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to timely submit the monthly discharge monitoring report for the period ending December 31, 2005."/>			

Base Penalty

>> **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"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

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 Avinger
 Case ID No. 31238
 Reg. Ent. Reference No. RN102181963
 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				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)	\$50	20-Jan-2006	31-Jan-2007	1.0	\$3	n/a	\$3

Notes for DELAYED costs: Estimated cost associated with completing the report. Date required is the date the monthly report was due. Final date is 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 \$50

TOTAL \$3

Screening Date	19-Sep-2006	Docket No.	2006-1589-MWD-E	PCW
Respondent	City of Avinger			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	31238			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102181963			
Media [Statute]	Water Quality			
Enf. Coordinator	Ruben Soto			
Violation Number	<input type="text" value="3"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 14399001 Sludge Provisions."/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to timely submit the annual sludge report for the period ending July 31, 2005."/>			

Base Penalty

>> **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"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

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 Avinger
 Case ID No. 31238
 Reg. Ent. Reference No. RN102181963
 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				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)	\$500	01-Sep-2005	30-Mar-2007	1.6	\$39	n/a	\$39

Notes for DELAYED costs: Estimated cost associated with completing the reports. Date required is the date the annual report was due. Final date is 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 TOTAL

Effluent Limit Violation Table

Respondent: City of Avinger
 Docket Number: 2006-1589-MWD-E; Enforcement ID No. 31238
 Enforcement Coordinator: Ruben Soto

Corresponds to Violation Number: 1

Mo/Yr	BOD ₅ daily avg. ldg. limit: 20 lbs/day	BOD ₅ daily avg. conc. limit: 20 mg/L	BOD ₅ single- grab conc. limit: 65 mg/L	pH min. conc. limit: 6.0 su	TSS daily avg. ldg. limit: 20 lbs/day	TSS daily avg. conc. limit: 20 mg/L	TSS single- grab conc. limit: 65 mg/L	Chlorine mthly. min. conc. limit: 1.0 mg/L	Chlorine mthly. max. conc. limit: 4.0 mg/L
May 05	c	c	c	4.37	c	c	c	c	4.4
June 05	c	c	c	c	c	c	c	c	4.2
Aug. 05	c	c	c	c	c	c	c	0.9	4.4
Sep. 05	c	26.0	c	c	c	30.25	c	c	4.1
Oct. 05	c	23.9	c	c	c	c	c	c	4.1
Nov. 05	c	30.7	77.0	c	c	89.0	280.0	c	c
Jan. 06	c	25.8	c	c	c	32.0	71	c	c
Feb. 06	c	c	c	c	c	21.25	c	c	c

BOD₅ = biochemical oxygen demand, 5-day TSS = total suspended solids lbs/day = pounds per day
 mg/L = milligrams per liter ldg. = loading conc. = concentration
 mthly. = monthly min. = minimum max. = maximum su = standard units avg. = average c = in compliance

Compliance History

Customer/Respondent/Owner-Operator:	CN600253033 City of Avinger	Classification: AVERAGE	Rating: 2.52
Regulated Entity:	RN102181963 AVINGER WASTEWATER PLANT	Classification: AVERAGE	Site Rating: 2.52
ID Number(s):	WASTEWATER PERMIT WASTEWATER PERMIT	TPDES14399001 TX0071803	
Location:	APPROXIMATELY 0.4 MILE NORTH OF THE INTERSECTION OF STATE HIGHWAY 155 AND STATE HIGHWAY 49, AVINGER, CASS COUNTY.	Rating Date: Repeat Violator:	September 01 2006 NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	September 11, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 11, 2001 to September 11, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Ruben Soto	Phone:	512 239-4571

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 08/12/2002 (198050)
 - 2 06/27/2002 (198047)
 - 3 07/21/2003 (143470)
 - 4 05/29/2002 (198045)
 - 5 04/11/2003 (198042)
 - 6 01/23/2006 (475097)
 - 7 04/28/2006 (502671)
 - 8 06/05/2006 (502672)
 - 9 12/09/2003 (257200)
 - 10 03/24/2003 (198039)
 - 11 03/20/2002 (198038)
 - 12 12/31/2002 (16528)
 - 13 04/18/2005 (423661)
 - 14 02/21/2002 (198036)
 - 15 06/16/2005 (423662)
 - 16 12/06/2004 (343298)
 - 17 08/25/2006 (509989)
 - 18 07/15/2005 (444462)
 - 19 08/15/2005 (444463)
 - 20 09/16/2005 (444464)
 - 21 02/17/2003 (312312)

22 02/23/2004 (312313)
23 03/19/2004 (312314)
24 07/28/2003 (312315)
25 02/18/2005 (385699)
26 04/21/2004 (312316)
27 03/21/2005 (385700)
28 05/30/2003 (312317)
29 01/03/2005 (385701)
30 07/28/2003 (312318)
31 12/27/2004 (385702)
32 08/29/2006 (509649)
33 07/25/2003 (312319)
34 08/25/2003 (312320)
35 05/13/2004 (359008)
36 09/22/2003 (312321)
37 07/16/2004 (359009)
38 05/10/2005 (379801)
39 10/17/2003 (312322)
40 03/02/2006 (475093)
41 01/21/2003 (198063)
42 08/26/2004 (359010)
43 11/24/2003 (312323)
44 01/22/2002 (198062)
45 09/21/2004 (359011)
46 07/28/2003 (312324)
47 10/18/2004 (359012)
48 12/15/2003 (312325)
49 03/24/2006 (475094)
50 12/17/2002 (198059)
51 01/21/2004 (312326)
52 11/19/2001 (198057)
53 11/01/2001 (198056)
54 10/17/2005 (475095)
55 05/03/2006 (456598)
56 08/23/2002 (198053)
57 11/21/2005 (475096)
58 09/24/2001 (198052)

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

Date: 06/30/2002 (198050)

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: 05/31/2002 (198047)

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: 04/30/2002 (198045)

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 (198042)

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: 10/31/2005 (475096)

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: 02/28/2003 (198039)
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: 02/28/2002 (198038)
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: 11/30/2005 (475097)
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: 01/31/2002 (198036)
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: 05/05/2006 (456598)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to update self generated discharge monitoring report.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)[G]
Description: Failure to maintain facility clarifier sludge inventory.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.5(e)(1)[G]
Description: Failure to maintain facility sludge drying beds.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to dispose of sludge properly.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.6(b)(1)(A)
30 TAC Chapter 317 317.6(b)(1)(B)
30 TAC Chapter 317 317.6(b)(1)(C)
30 TAC Chapter 317 317.6(b)(1)(D)
30 TAC Chapter 317 317.6(b)(1)(E)
30 TAC Chapter 317 317.6(b)(1)(F)
30 TAC Chapter 317 317.6(b)(1)(G)
30 TAC Chapter 317 317.6(b)(1)[G]
Description: Failure to secure chlorine gas cylinders.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(a)[G]
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
TWC Chapter 26 26.121[G]
Description: Failure to prevent unauthorized discharge.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)[G]
Description: Failure to provide adequate notification of sewage overflow.

Date: 03/31/2005 (423661)
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: 05/31/2005 (423662)
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: 05/11/2005 (379801)
Self Report? NO Classification: Minor
Citation: TWC Chapter 26 26.121
Description: Failure to prevent unauthorized discharge of sewage.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to calibrate the effluent flow meter.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to submit noncompliances notification for sewage bypass.

Date: 06/30/2005 (444462)
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: 07/22/2003 (143470)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(g)(4)(B)[G]
Description: Failure to maintain aeration rotor.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.1[G]
Description: Failure to maintain sludge inventory.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet permit effluent limits.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to perform quality assurance on Chlorine analysis.

Date: 08/31/2005 (444464)
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: 01/31/2003 (312312)
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: 01/31/2004 (312313)
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 (312314)
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: 12/31/2002 (198063)
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 (312321)
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: 06/30/2004 (359009)
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: 12/31/2001 (198062)
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 (312322)
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: 07/31/2004 (359010)
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: 10/31/2003 (312323)
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: 08/31/2004 (359011)
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: 11/30/2001 (312324)
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: 01/31/2006 (475093)
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: 11/30/2002 (198059)
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 (312315)
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: 01/31/2005 (385699)
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: 03/31/2004 (312316)
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: 02/28/2005 (385700)
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: 04/30/2003 (312317)
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 (385701)
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 (312318)
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 (385702)
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 (312319)
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: 07/31/2003 (312320)
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: 04/30/2004 (359008)
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 (359012)
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: 11/30/2003 (312325)
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: 10/31/2001 (198057)
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: 12/31/2003 (312326)
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: 09/30/2001 (198056)
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: 02/28/2006 (475094)
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: 07/31/2002 (198053)
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: 09/30/2005 (475095)
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

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 AVINGER
RN102181963

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2006-1589-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 City of Avinger ("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 located approximately 0.4 mile north of the intersection of State Highway 155 and State Highway 49 in Avinger, Cass County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
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 September 2, 2006.
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 Thirteen Thousand Seven Hundred Thirty-Four Dollars (\$13,734) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Two Thousand Seven Hundred Forty-Five Dollars (\$2,745) of the administrative penalty and Two Thousand Seven Hundred Forty-Seven Dollars (\$2,747) 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, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Eight Thousand Two Hundred Forty-Two Dollars (\$8,242) of the administrative penalty shall be payable in 26 monthly payments of Three Hundred Seventeen Dollars (\$317) 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 implemented the following corrective measures at the Facility:
 - a. On January 31, 2007, submitted the monthly discharge monitoring reports for December 2005; and
 - b. On March 30, 2007, submitted the annual sludge report for the period ending July 31, 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 in the chart, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 14399001

Effluent Limitations and Monitoring Requirements Nos. 1, 2 and 3, as documented during a record review conducted on August 18, 2006:

Mo/Yr	BOD ₅ daily avg. ldg. limit: 20 lbs/day	BOD ₅ daily avg. conc. limit: 20 mg/L	BOD ₅ single- grab conc. limit: 65 mg/L	pH min. conc. limit: 6.0 su	TSS daily avg. ldg. limit: 20 lbs/day	TSS daily avg. conc. limit: 20 mg/L	TSS single- grab conc. limit: 65 mg/L	Chlorine mthly. min. conc. limit: 1.0 mg/L	Chlorine mthly. max. conc. limit: 4.0 mg/L
May 05	c	c	c	4.37	c	c	c	c	4.4
June 05	c	c	c	c	c	c	c	c	4.2
Aug. 05	c	c	c	c	c	c	c	0.9	4.4
Sep. 05	c	26.0	c	c	c	30.25	c	c	4.1
Oct. 05	c	23.9	c	c	c	c	c	c	4.1
Nov. 05	c	30.7	77.0	c	c	89.0	280.0	c	c
Jan. 06	c	25.8	c	c	c	32.0	71	c	c
Feb. 06	c	c	c	c	c	21.25	c	c	c

BOD₅ = biochemical oxygen demand, 5-day TSS = total suspended solids lbs/day = pounds per day
mg/L = milligrams per liter ldg. = loading conc. = concentration mthly. = monthly
min. = minimum max. = maximum su = standard units avg. = average c = in compliance

2. Failed to timely submit the monthly discharge monitoring report ("DMR") for the period ending December 31, 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 14399001 Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on August 18, 2006.
3. Failed to timely submit the annual sludge report by September 1, 2005, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 14399001 Sludge Provisions, as documented during a record review conducted on August 18, 2006.

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 payment 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 Avinger, Docket No. 2006-1589-MWD-E" to:

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

2. It is further ordered that the City shall, within 30 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with the effluent limits of TPDES Permit No. 14399001. The certification shall, include detailed supporting documentation including receipts, and or other records 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 persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Manager, Water Section
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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



For the Executive Director

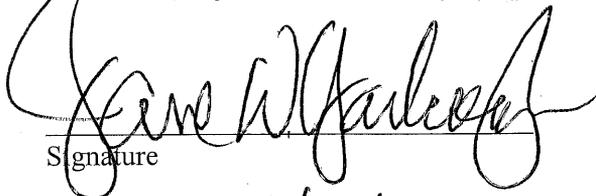
Date 1/21/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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



Signature

Date 4-17-07

Jane W. Yarbrough
Name (Printed or typed)
Authorized Representative of
City of Avinger

Title Mayor

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.

