

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-1716-MWD-E **TCEQ ID:** RN101511863 **CASE NO.:** 36741
RESPONDENT NAME: Avalon Water Supply and Sewer Service Corporation

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: Avalon Water Supply and Sewer Service Corporation, located approximately 1,100 feet west of State Highway 55 and approximately 1,900 feet south of the intersection of State Highway 34 and State Highway 55, Avalon, Ellis County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 23, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. H. L. Southard, President, Avalon Water Supply and Sewer Service Corporation, P.O. Box 246, Itasca, Texas 76055 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2009 FEB -9 PM 4:16
 CHIEF CLERKS OFFICE

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 15, 2008</p> <p>Date of NOY/NOE Relating to this Case: October 17, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for biochemical oxygen demand, pH, total suspended solids, and flow [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p> <p>2) Failure to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013981001, Sludge Provisions].</p>	<p>Total Assessed: \$9,950</p> <p>Total Deferred: \$1,990 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$7,960</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the 2007 annual sludge report; and</p> <p>b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013981001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0013981001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	27-Oct-2008	Screening	29-Oct-2008	EPA Due	
	PCW	29-Oct-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Avalon Water Supply and Sewer Service Corporation		
Reg. Ent. Ref. No.	RN101511863		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36741	No. of Violations	2
Docket No.	2008-1716-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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: The Respondent self-reported 22 months of effluent quality violations and received four Notices of Violations for violations that are considered same or similar.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance *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.

Notes: Recommended reduction to prevent the self-reported violations from overly impacting the penalty and to prevent double-enhancement of the penalty for the same or similar violations that were not self-reported.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 29-Oct-2008

Docket No. 2008-1716-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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)	26	130%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 130%

>> **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 22 months of effluent quality violations and received four Notices of Violations for violations that are considered same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 29-Oct-2008

Docket No. 2008-1716-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1); '80 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description Failed to comply with permit effluent limits, as documented during a record-review conducted on September 15, 2008. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Reported values for flow, 5-day biochemical oxygen demand, pH, and total suspended solids, and receiving stream characteristics were considered to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 305 Number of violation days

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$380

Violation Final Penalty Total \$7,960

This violation Final Assessed Penalty (adjusted for limits) \$7,960

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Reg. Ent. Reference No. RN101511863
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,500	30-Jun-2007	31-Aug-2009	2.17	\$380	n/a	\$380

Notes for DELAYED costs: Estimated cost to evaluate the cause of noncompliance and to make necessary adjustments at the Facility to achieve compliance with permitted effluent limits. Date Required is the initial 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

\$3,500

TOTAL

\$380

Screening Date 29-Oct-2008

Docket No. 2008-1716-MWD-E

PCW

Respondent Avalon Water Supply and Sewer Service Corporation

Policy Revision 2 (September 2002)

Case ID No. 36741

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101511863

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0013981001, Sludge Provisions

Violation Description Failed to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007, as documented during a record review conducted on September 15, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the permit requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 380

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$1,990

This violation Final Assessed Penalty (adjusted for limits) \$1,990

Economic Benefit Worksheet

Respondent Avalon Water Supply and Sewer Service Corporation
Case ID No. 36741
Reg. Ent. Reference No. RN101511863
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2007	30-Jun-2009	1.83	\$9	n/a	\$9

Notes for DELAYED costs

The delayed cost includes the estimated amount required to submit the annual sludge report to the Enforcement Division, calculated from the date of noncompliance to the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$9
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Effluent Limit Violation Table

table rev.

Respondent	Avalon Water Supply and Sewer Service Corporation
ID Number(s)	WQ0013981001
Docket Number	2008-1716-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

<i>EFFLUENT PARAMETER</i>						
<i>Permit Limit</i>						
	5-Day Biochemical Oxygen Demand Daily Average Loading 4.2 Pounds per Day	pH Minimum 6.0 Standard Units	Total Suspended Solids Daily Average Loading 4.2 Pounds per Day	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Single Grab Concentration 65 Milligrams per Liter	Daily Average Flow 0.025 Million Gallons per Day
<i>Month/Year</i>						
Jun-07	c	c	c	c	c	0.028
Jul-07	c	c	c	c	c	0.028
Oct-07	c	c	c	c	c	0.027
Nov-07	c	c	4.50	c	c	0.027
Dec-07	4.70	c	5.60	c	c	0.028
Jan-08	4.40	4.40	10.56	34.40	c	0.031
Feb-08	c	c	5.60	25.75	80.00	c
Mar-08	c	c	c	c	c	0.026
Apr-08	c	c	4.58	c	c	0.028
May-08	4.52	c	6.13	26.25	c	0.029

c = compliant

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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600788590	Avalon Water Supply and Sewer Service Corporation	Classification: AVERAGE	Rating: 1.26
Regulated Entity:	RN101511863	AVALON WATER SUPPLY AND SEWER SERVICE CORPORATION	Classification: AVERAGE	Site Rating: 1.26
ID Number(s):	WASTEWATER	PERMIT	WQ0013981001	
	WASTEWATER	PERMIT	TPDES0020567	
	WASTEWATER	PERMIT	TX0020567	

Location:	LOCATED APPROXIMATELY 1,100 FEET WEST OF STATE HIGHWAY 55 AND APPROXIMATELY 1,900 FEET SOUTH OF THE INTERSECTION OF STATE HIGHWAY 34 AND STATE HIGHWAY 55 IN AVALON, ELLIS COUNTY, TEXAS	Rating Date: 9/1/2008 Repeat Violator: NO
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TCEQ Region:	REGION 04 - DFW METROPLEX
Date Compliance History Prepared:	October 28, 2008
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	October 28, 2003 to October 28, 2008

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

Name:	Heather Brister	Phone:	254/761-3034
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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 | 12/03/2003 | (255173) |
| 2 | 12/12/2003 | (297371) |
| 3 | 12/15/2003 | (297373) |
| 4 | 12/22/2003 | (297368) |
| 5 | 01/09/2004 | (297374) |
| 6 | 03/19/2004 | (266482) |
| 7 | 08/18/2004 | (352949) |
| 8 | 08/18/2004 | (352950) |
| 9 | 08/18/2004 | (352951) |
| 10 | 08/18/2004 | (352952) |
| 11 | 08/18/2004 | (352953) |
| 12 | 08/18/2004 | (352954) |
| 13 | 08/18/2004 | (352955) |
| 14 | 08/31/2004 | (252748) |
| 15 | 09/29/2004 | (352956) |
| 16 | 05/23/2005 | (420114) |
| 17 | 05/23/2005 | (420115) |
| 18 | 05/23/2005 | (420116) |
| 19 | 05/23/2005 | (420118) |
| 20 | 05/23/2005 | (420119) |
| 21 | 05/23/2005 | (420120) |
| 22 | 05/24/2005 | (420117) |
| 23 | 08/10/2005 | (441224) |
| 24 | 08/10/2005 | (441225) |
| 25 | 08/10/2005 | (441226) |
| 26 | 08/10/2005 | (441227) |

27 08/25/2005 (449393)
 28 08/28/2005 (449394)
 29 11/07/2005 (469116)
 30 11/07/2005 (469117)
 31 11/07/2005 (469118)
 32 12/20/2005 (469119)
 33 01/10/2006 (469120)
 34 03/23/2006 (469114)
 35 03/23/2006 (469115)
 36 04/13/2006 (498657)
 37 05/12/2006 (498658)
 38 06/21/2006 (498659)
 39 07/07/2006 (520653)
 40 08/11/2006 (497045)
 41 09/01/2006 (520654)
 42 09/21/2006 (520655)
 43 10/12/2006 (619875)
 44 11/10/2006 (619876)
 45 12/27/2006 (619877)
 46 01/22/2007 (619878)
 47 03/08/2007 (619867)
 48 03/22/2007 (619868)
 49 04/18/2007 (619869)
 50 07/12/2007 (619870)
 51 07/12/2007 (619871)
 52 07/27/2007 (619872)
 53 09/13/2007 (619873)
 54 10/09/2007 (619874)
 55 02/06/2008 (672347)
 56 02/06/2008 (672348)
 57 02/06/2008 (672349)
 58 02/06/2008 (672350)
 59 02/28/2008 (690262)
 60 03/20/2008 (690263)
 61 05/02/2008 (690264)
 62 05/30/2008 (654927)
 63 05/30/2008 (690265)
 64 10/20/2008 (702921)

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

Date: **01/31/2004** (352949)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2004** (352951)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2004** (352952)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **05/31/2004** (352953)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2004** (352954)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2004** (352955)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2004** (420120)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2005** (420116)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2005** (441226)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: **08/25/2005** (449393)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: **08/28/2005** (449394)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: **08/11/2006** (497045)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter D 305.65
 Description: Failure to submit the permit renewal to the TCEQ Permitting
 Section within 180 days of the expiration of the permit. The
 current permit expires on December 1, 2006.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure to take action to comply with the 75/90 rule
 requirements for flow.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with the self-monitored effluent limitations.

Date: 01/31/2007 (619867)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (619870)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (619871)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (619872)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (619873)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2007 (672348)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2007 (672349)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2007 (672350)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (690262)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2008 (690263)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2008** (690264)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2008** (690265)
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: **05/30/2008** (654927)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with the permitted effluent flow limit of 0.025 MGD.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter D 305.65
 Description: Failure to submit the permit renewal to the TCEQ Permitting Section within 180 days of the expiration of the permit. The current permit expires on December 1, 2006.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure to take action to comply with the 75/90 rule requirements for flow.

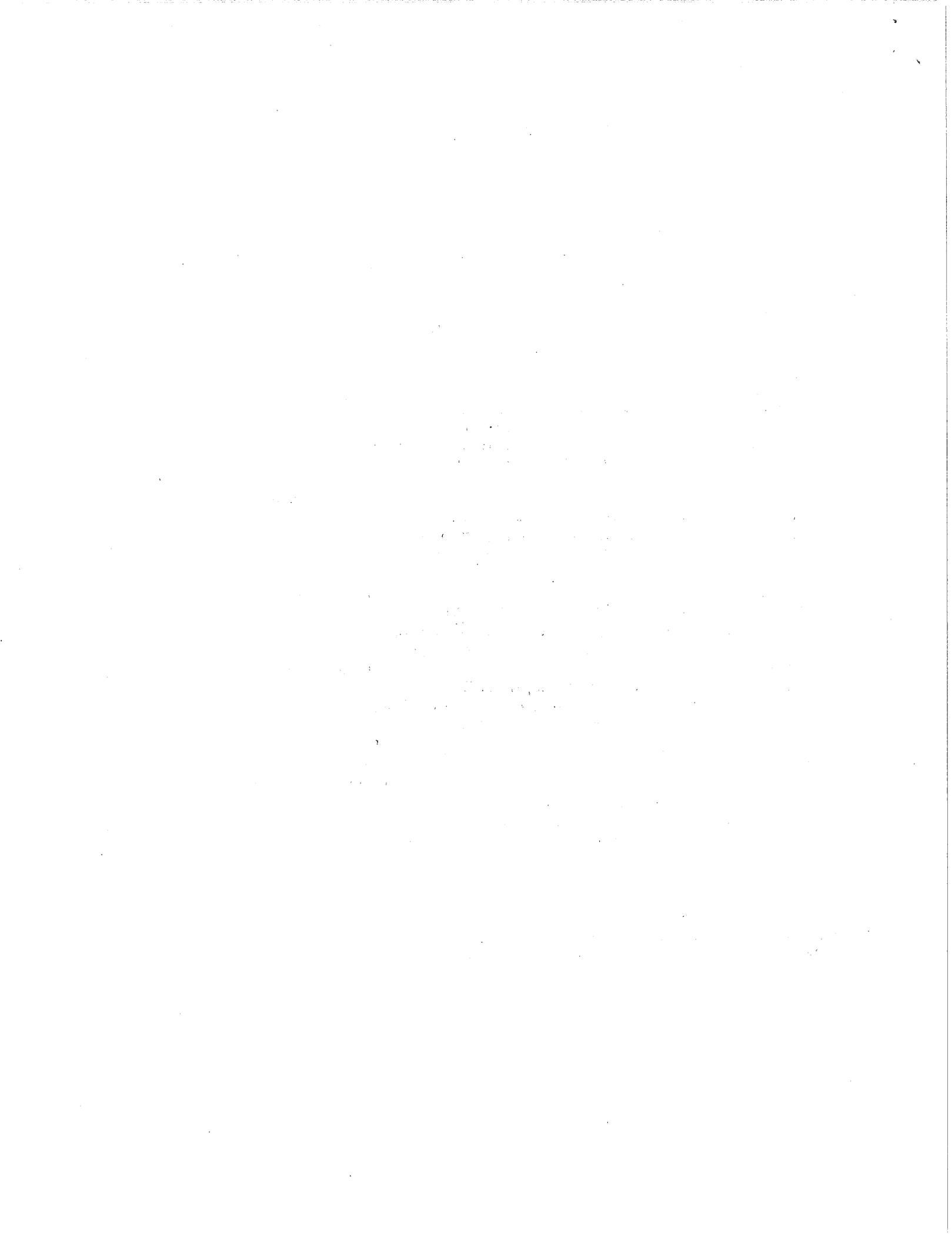
Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to comply with the self-monitored effluent limitations.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.4
 Description: Failure to perform sampling and analysis on the parameters specified in the permit.

Date: **05/31/2008**
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 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



CHIEF CLERKS OFFICE

2009 FEB -9 PM 4: 16

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AVALON WATER SUPPLY AND
SEWER SERVICE CORPORATION
RN101511863

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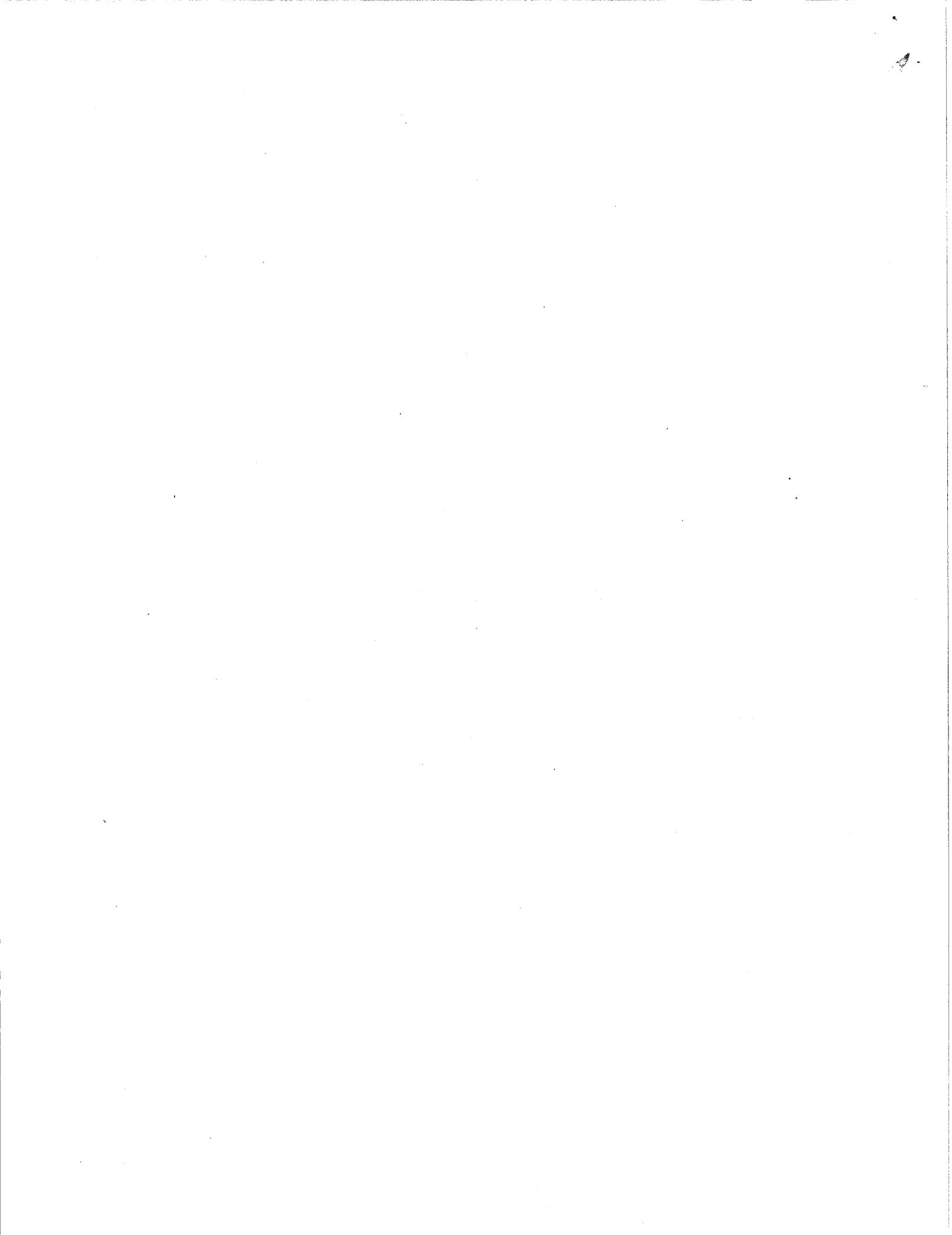
BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1716-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 Avalon Water Supply and Sewer Service Corporation ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 1,100 feet west of State Highway 55 and approximately 1,900 feet south of the intersection of State Highway 34 and State Highway 55 in Avalon, Ellis County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 22, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

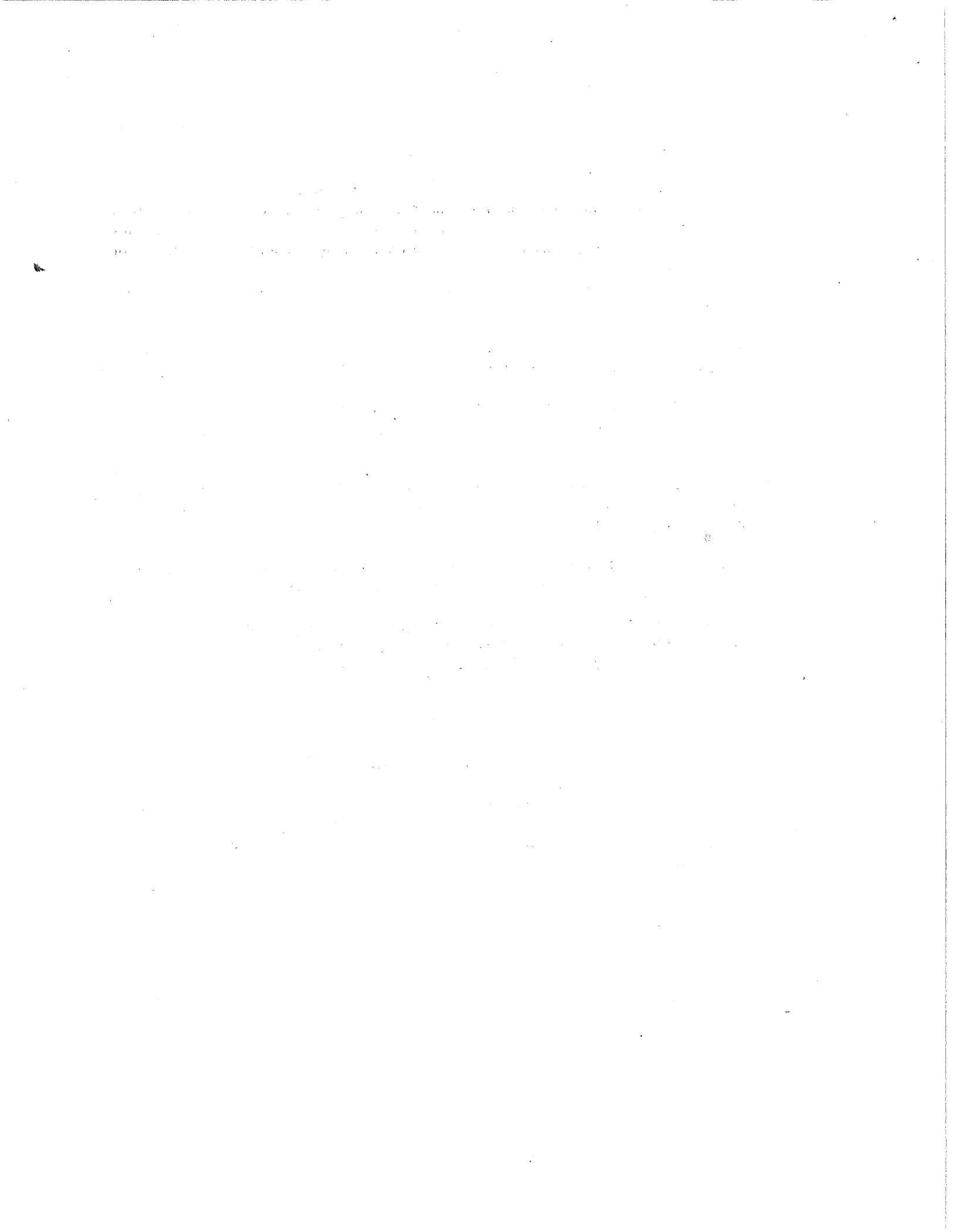


6. An administrative penalty in the amount of Nine Thousand Nine Hundred Fifty Dollars (\$9,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Nine Hundred Sixty Dollars (\$7,960) of the administrative penalty and One Thousand Nine Hundred Ninety Dollars (\$1,990) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013981001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on September 15, 2008 and as shown in the following table:



EFFLUENT PARAMETER						
Permit Limit						
Month/Year	5-Day Biochemical Oxygen Demand Daily Average Loading 4.2 Pounds per Day	pH Minimum 6.0 Standard Units	Total Suspended Solids Daily Average Loading 4.2 Pounds per Day	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Single Grab Concentration 65 Milligrams per Liter	Daily Average Flow 0.025 Million Gallons per Day
Jun-07	c	c	c	c	c	0.028
Jul-07	c	c	c	c	c	0.028
Oct-07	c	c	c	c	c	0.027
Nov-07	c	c	4.50	c	c	0.027
Dec-07	4.70	c	5.60	c	c	0.028
Jan-08	4.40	4.40	10.56	34.40	c	0.031
Feb-08	c	c	5.60	25.75	80.00	c
Mar-08	c	c	c	c	c	0.026
Apr-08	c	c	4.58	c	c	0.028
May-08	4.52	c	6.13	26.25	c	0.029

c = compliant

- Failed to submit the annual sludge report for the monitoring period ending July 31, 2007 by September 1, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0013981001, Sludge Provisions, as documented during a record review conducted on September 15, 2008.

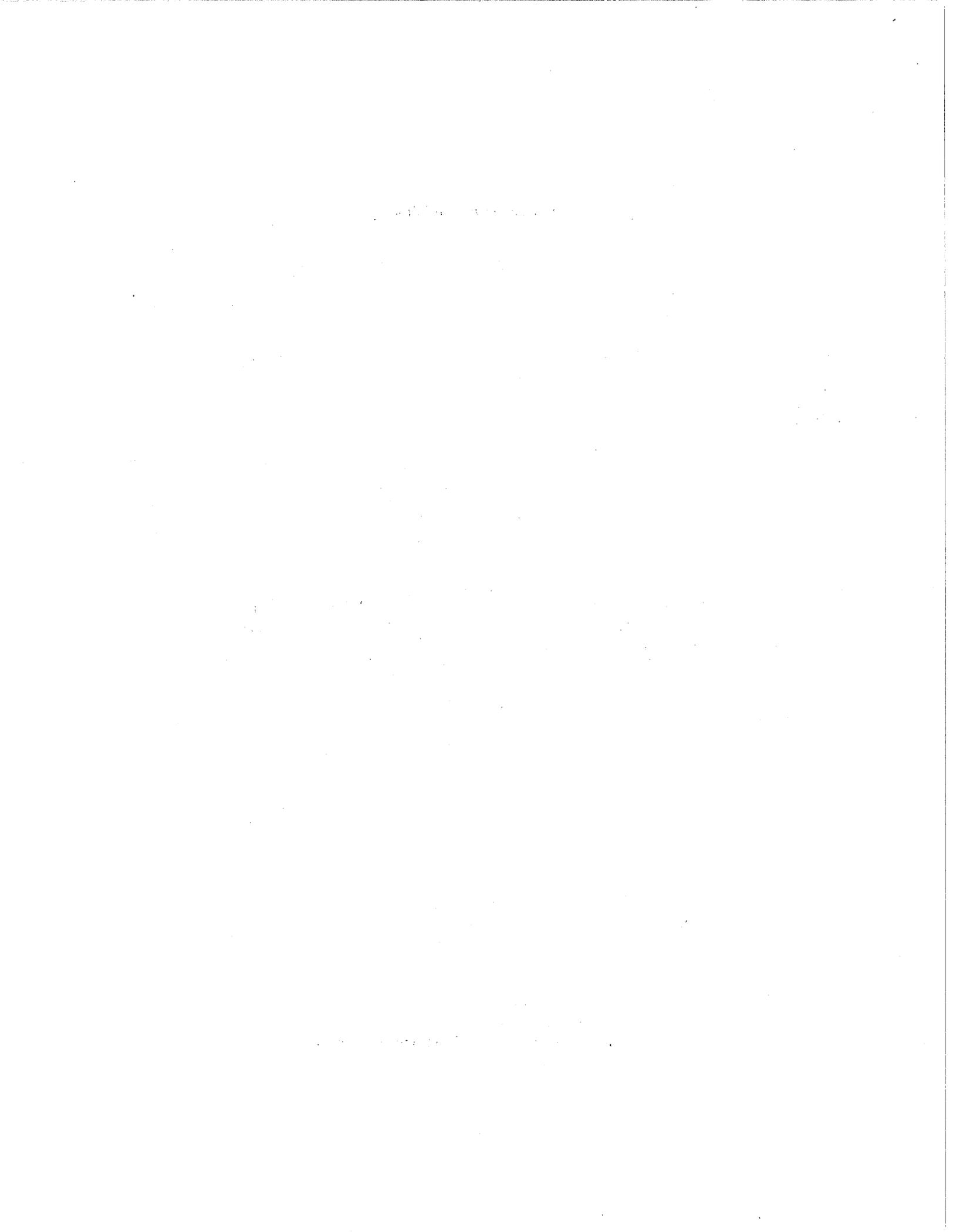
III. DENIALS

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

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Avalon Water Supply and Sewer Service Corporation, Docket No. 2008-1716-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 Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, submit the 2007 annual sludge report to:

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

- b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0013981001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

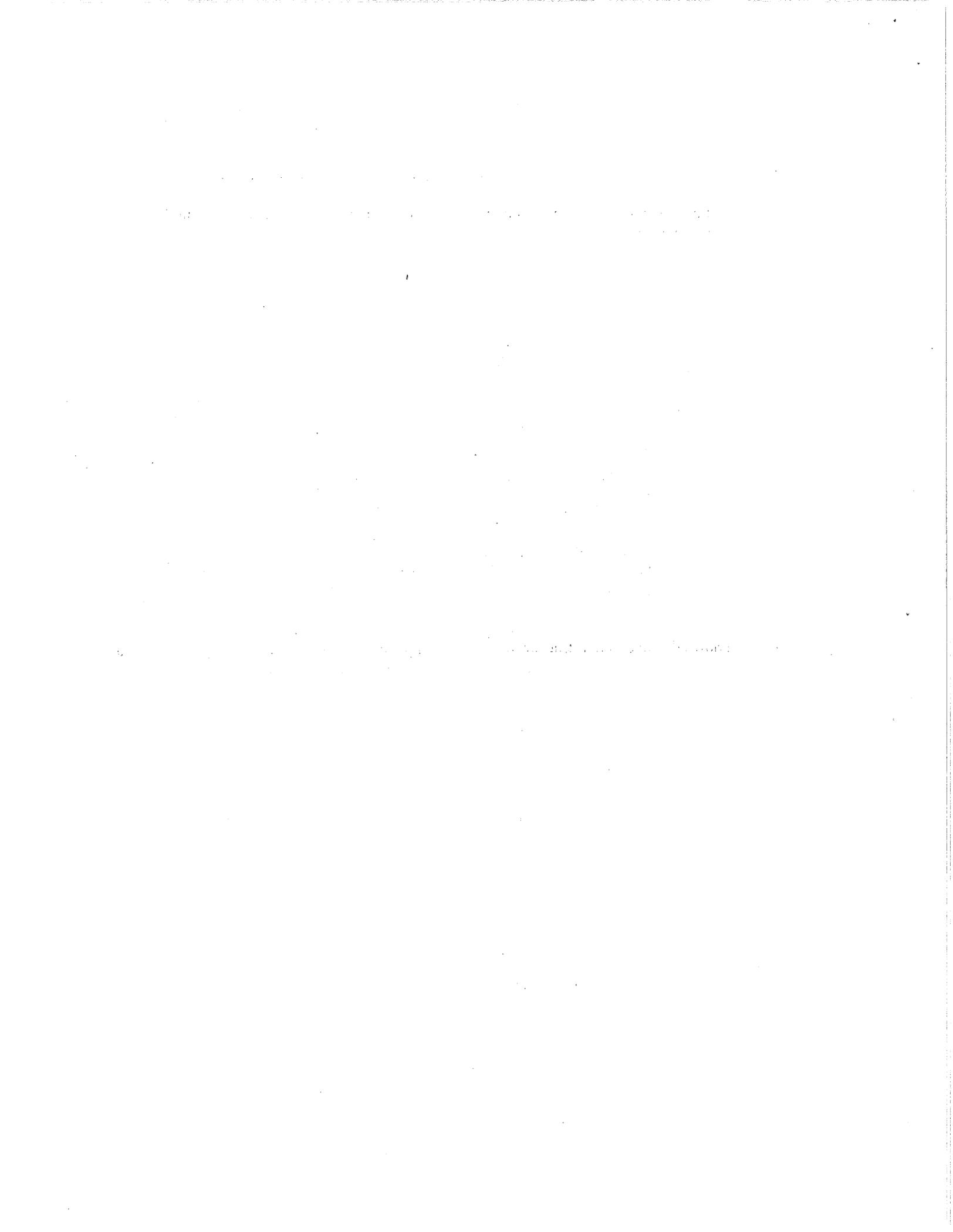
The certification shall be submitted to:

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

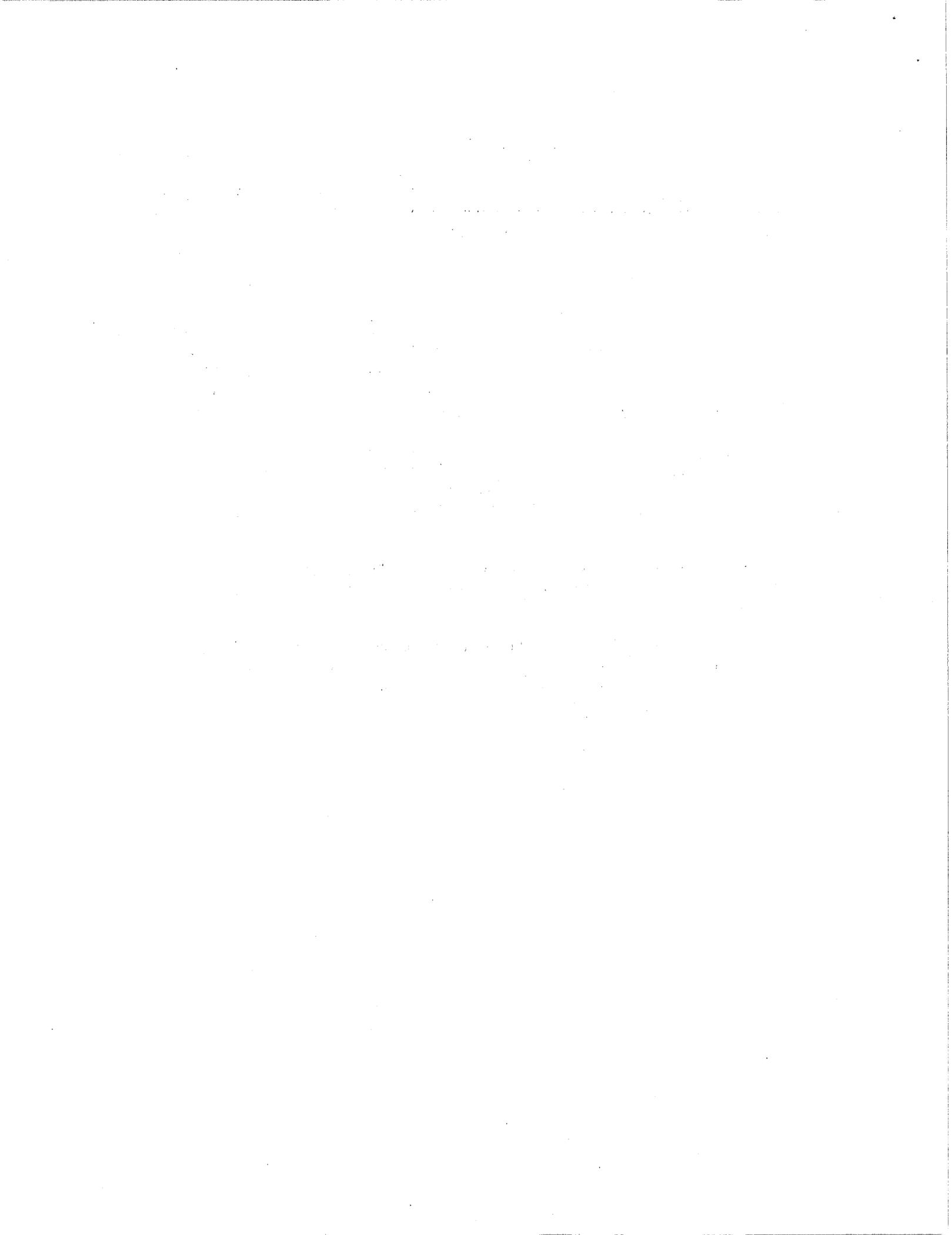
with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.



4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
For the Executive Director

2/5/2009
Date

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

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

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

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

H. L. Southard
Signature

12/2/08
Date

H. L. Southard
Name (Printed or typed)
Authorized Representative of
Avalon Water Supply and Sewer Service Corporation

12/2/08
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

