

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0664-MWD-E **TCEQ ID:** RN102094729 **CASE NO.:** 33291
RESPONDENT NAME: Hull Fresh Water Supply District

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: Hull Wastewater Plant, located approximately 0.75 mile northeast of the intersection of State Highway 770 and the Missouri Pacific Railroad, Liberty County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input 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 September 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Wendell S. Nance, Sr., President of Water Board, Hull Fresh Water Supply District, P. O. Box 282, Hull, Texas 77564-0282 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 1, 2007</p> <p>Date of NOE Relating to this Case: April 17, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Three violations were documented.</p> <p>WATER</p> <p>1) Failure to prevent the unauthorized discharge of wastewater from the collection system. Specifically, 30 unauthorized discharges from the collection system occurred during the 18 months prior to the March 1, 2007 investigation [30 TEX. ADMIN. CODE § 305.125(4) and (5), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 13544002, Operational Requirements No. 1].</p> <p>2) Failure to submit noncompliance notifications for all unauthorized discharges from the collection system as required. Specifically, 30 overflows occurred at the residential wet cells with grinder pumps during the 18 months prior to the current investigation [30 TEX. ADMIN. CODE § 305.125(9), and TPDES Permit No. 13544002, Monitoring and Reporting Requirements, Noncompliance Notification No. 7].</p> <p>3) Failure to collect effluent samples at the required frequency. Specifically, a review of the self-monitoring data revealed that effluent samples were not taken during the first two weeks of November 2006 [30 TEX. ADMIN. CODE § 319.5(b), and TPDES Permit No. 13544002, Monitoring and Reporting Requirements, Self-Reporting No. 1].</p>	<p>Total Assessed: \$22,425</p> <p>Total Deferred: \$4,485 <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: \$805 (the remaining \$17,135 to be paid in 23 monthly payments of \$745 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 Respondent began collecting the required samples routinely by December 31, 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operations guidance and conduct employee training to ensure that:</p> <p>i. The Facility and all of its collection systems, including but not limited to: grinder pumps, electrical switches, electric power supplies, check valves to maintain proper functions, float and float switches, and discharge lines, are properly maintained to prevent or minimize unauthorized discharges;</p> <p>ii. All unauthorized discharges of wastewater are reported to the TCEQ, in accordance with TPDES Permit No. 13544002; and</p> <p>iii. Provide the necessary training for personnel to ensure for the collection of samples and submission of properly completed monthly sampling reports.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	23-Apr-2007	Screening	24-Apr-2007	EPA Due	
	PCW	26-Apr-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Hull Fresh Water Supply District
Reg. Ent. Ref. No.	RN102094729
Facility/Site Region	Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33291	No. of Violations	3
Docket No.	2007-0664-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	4
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 **Subtotals 2, 3, & 7**

Notes: A 95% enhancement is recommended for having 16 self-reporting violations, and three NOV's for same/similar violations.

Culpability **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **Subtotal 5**

	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.

Total EB Amounts **Subtotal 6**
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. (Enter number only; e.g. -30 for -30%.)

Notes: Recommended reduction in the penalty so that the reporting of noncompliance notifications for the unauthorized discharges in violation No. 2 do not overly-impact the penalty amount.

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: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 24-Apr-2007

Docket No. 2007-0664-MWD-E

PCW

Respondent Hull Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 33291

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102094729

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria) :	19	95%
	Other written NOV's	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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) 95%

>> 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

A 95% enhancement is recommended for having 16 self-reporting violations, and three NOV's for same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 95%

Screening Date 24-Apr-2007

Docket No. 2007-0664-MWD-E

PCW

Respondent Hull Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 33291

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102094729

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(4) and (5), Tex. Water Code § 26.121(a), and TPDES Permit No. 13544002, Operational Requirements No. 1

Violation Description Failed to prevent the unauthorized discharge of wastewater from the collection system. Specifically, 30 unauthorized discharges from the collection system occurred during the 18 months prior to the March 1, 2007 investigation.

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

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 as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 502 Number of violation days

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

Violation Base Penalty \$6,000

Six quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,034

Violation Final Penalty Total \$3,495

This violation Final Assessed Penalty (adjusted for limits) \$3,495

Economic Benefit Worksheet

Respondent Hull Fresh Water Supply District
Case ID No. 33291
Reg. Ent. Reference No. RN102094729
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
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)	\$10,000	7-Oct-2005	1-Nov-2007	2.1	\$1,034	n/a	\$1,034

Notes for DELAYED costs

Estimated cost for an evaluation of the collection system. The Date Required was the date the overflows started. The Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,034

Screening Date 24-Apr-2007

Docket No. 2007-0664-MWD-E

PCW

Respondent Hull Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 33291

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102094729

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9), and TPDES Permit No. 13544002, Monitoring and Reporting Requirements, Noncompliance Notification No. 7

Violation Description Failed to submit noncompliance notifications for all unauthorized discharges from the collection system as required. Specifically, 30 overflows occurred at the residential wet cells with grinder pumps during the 18 months prior to the current investigation.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Thirty single 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 Hull Fresh Water Supply District
Case ID No. 33291
Reg. Ent. Reference No. RN102094729
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
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)	\$450	7-Oct-2005	1-Nov-2007	2.1	\$47	n/a	\$47

Notes for DELAYED costs

The estimated cost to submit notifications for unauthorized discharges (\$15 each for 30 reports). The Date Required was the date the overflows started. The Final Date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

NA

Approx. Cost of Compliance

\$450

TOTAL

\$47

Screening Date 24-Apr-2007

Docket No. 2007-0664-MWD-E

PCW

Respondent Hull Fresh Water Supply District

Policy Revision 2 (September 2002)

Case ID No. 33291

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102094729

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 319.5(b), and TPDES Permit No. 13544002, Monitoring and Reporting Requirements, Self-Reporting No. 1

Violation Description Failed to collect effluent samples at the required frequency. Specifically, a review of the self-monitoring data revealed that effluent samples were not taken during the first two weeks of November 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

14 Number of violation days

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,456

This violation Final Assessed Penalty (adjusted for limits) \$1,456

Economic Benefit Worksheet

Respondent Hull Fresh Water Supply District
Case ID No. 33291
Reg. Ent. Reference No. RN102094729
Media Water Quality
Violation No. 3

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	\$100	1-Nov-2006	31-Dec-2006	0.2	\$1	n/a	\$1
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost for additional oversight and sampling which could have reduced or alleviated the violations. The Date Required was the first date of the non-sampling period. The Final Date was the date of compliance.

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 NA

Approx. Cost of Compliance **TOTAL**
\$1

Compliance History

Customer/Respondent/Owner-Operator: CN600662134 Hull Fresh Water Supply District Classification: AVERAGE Rating: 1.05
 Regulated Entity: RN102094729 HULL WASTEWATER PLANT Classification: AVERAGE Site Rating: 1.05
 ID Number(s): WASTEWATER PERMIT WQ0013544002
 WASTEWATER PERMIT TPDES0106836
 WASTEWATER PERMIT TX0106836
 WASTEWATER PERMIT WQ0013544002
 WASTEWATER PERMIT TX0106836
 WASTEWATER LICENSING LICENSE WQ0013544002
 Location: 0.75 mile northeast of the intersection of State Highway 770 and the Missouri Pacific Railroad in Liberty County, Texas Rating Date: 9/1/2006 Repeat Violator: NO
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: April 23, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: April 23, 2002 to April 23, 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? | <u>N/A</u> |
| 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	05/28/2002	(225125)
2	07/22/2002	(225127)
3	08/12/2002	(225132)
4	08/12/2002	(225130)
5	10/07/2002	(225138)
6	10/09/2002	(225135)
7	12/13/2002	(18729)
8	06/30/2003	(323474)
9	06/30/2003	(323470)
10	06/30/2003	(323472)
11	09/22/2003	(147678)
12	01/06/2004	(323459)
13	01/06/2004	(323461)
14	01/06/2004	(323463)
15	01/06/2004	(323464)
16	01/06/2004	(323465)
17	01/06/2004	(323466)
18	01/06/2004	(323467)
19	01/06/2004	(323468)

20 01/06/2004 (323469)
 21 01/06/2004 (323471)
 22 01/06/2004 (323473)
 23 01/12/2004 (323475)
 24 02/17/2004 (323460)
 25 03/10/2004 (323462)
 26 04/19/2004 (490450)
 27 05/19/2004 (490452)
 28 06/14/2004 (490454)
 29 07/19/2004 (490456)
 30 08/19/2004 (490458)
 31 09/24/2004 (490460)
 32 10/25/2004 (490462)
 33 11/15/2004 (490464)
 34 12/13/2004 (490466)
 35 01/10/2005 (490468)
 36 02/07/2005 (490447)
 37 03/14/2005 (490449)
 38 04/12/2005 (376475)
 39 04/18/2005 (490451)
 40 05/12/2005 (490453)
 41 06/10/2005 (395413)
 42 06/21/2005 (490455)
 43 07/15/2005 (490457)
 44 08/15/2005 (490459)
 45 09/15/2005 (490461)
 46 11/14/2005 (490463)
 47 12/12/2005 (490465)
 48 12/12/2005 (490467)
 49 01/23/2006 (490469)
 50 02/16/2006 (490448)
 51 04/12/2006 (505331)
 52 04/12/2006 (505332)
 53 05/25/2006 (505333)
 54 07/13/2006 (527613)
 55 09/01/2006 (527614)
 56 09/01/2006 (527615)
 57 09/20/2006 (527616)
 58 09/27/2006 (531060)
 59 04/17/2007 (542416)

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

Date 05/31/2002 (225127)
 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 08/31/2002 (225135)
 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 09/30/2002 (225138)
 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 12/13/2002 (18729)
 Self Report? NO Classification Minor
 Rqmt Prov: OP TPDES Permit No. 13544-002
 Description: Failure to properly maintain and callbrate the flow meter.
 Self Report? NO Classification Minor
 Rqmt Prov: OP TPDES Permit No. 13544-002
 Description: Failure to report the correct daily average flows on the FY 2002 discharge

monitoring reports and failure to report D.O. violations in the number of excursions column on the August and September, 2002 discharge monitoring

Self Report? NO Classification Moderate

Rqmt Prov: OP TPDES Permit No. 13544-002

Description: Failure to properly store plant screenings.

Self Report? NO Classification Moderate

Rqmt Prov: OP TPDES Permit No. 13544-002

Description: Failure to comply with the D.O. minimum of 4.0 mg/l.

Date 02/28/2003 (323461)

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 (323463)

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 (323466)

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 (323460)

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 (323462)

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 (490450)

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 05/31/2004 (490454)

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 (490456)

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 (490460)

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 (490466)

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 (490447)

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 (490449)

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	03/31/2005	(490451)	
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	04/11/2005	(376475)	
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	30 TAC Chapter 317 317.7(i) Failure to have an RPZ backflow prevention device or an air gap installed on the main potable line to the wastewater treatment plant (WWTP).		
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 the unauthorized discharge of wastewater in the collection system.		
Self Report?	NO	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9)[G]		
Description:	Failure to notify the TCEQ of unauthorized discharges from the collection		
Date	09/27/2006	-531060	
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:	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
HULL FRESH WATER SUPPLY
DISTRICT
RN102094729**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2007-0664-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 Hull Fresh Water Supply District ("Hull") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Hull appear before the Commission and together stipulate that:

1. Hull owns and operates a wastewater treatment facility located approximately 0.75 mile northeast of the intersection of State Highway 770 and the Missouri Pacific Railroad in Liberty County, Texas (the "Facility").
2. Hull has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Hull agree that the Commission has jurisdiction to enter this Agreed Order, and that Hull is subject to the Commission's jurisdiction.
4. Hull received notice of the violations alleged in Section II ("Allegations") on or about April 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Hull of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty-Two Thousand Four Hundred Twenty-Five Dollars (\$22,425) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Hull has paid Eight Hundred Five Dollars (\$805) of the administrative penalty and Four Thousand Four Hundred Eighty-Five Dollars (\$4,485) is deferred contingent upon Hull'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 Hull fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Hull to pay all or part of the deferred penalty.

The remaining amount of Seventeen Thousand One Hundred Thirty-Five Dollars (\$17,135) of the administrative penalty shall be payable in 23 monthly payments of Seven Hundred Forty-Five Dollars (\$745) 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 Hull 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 Hull to meet the payment schedule of this Agreed Order constitutes the failure by Hull 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 Hull 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 Hull began collecting the required samples routinely by December 31, 2006.
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 Hull 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, Hull is alleged to have:

1. Failed to prevent the unauthorized discharge of wastewater from the collection system, in violation of 30 TEX. ADMIN. CODE § 305.125(4) and (5), TEX. WATER CODE § 26.121(a), and TPDES Permit No. 13544002, Operational Requirements No. 1. Specifically, 30 unauthorized discharges from the collection system occurred during the 18 months prior to the current investigation, as documented during an investigation conducted on March 1, 2007.
2. Failed to submit noncompliance notifications for all unauthorized discharges from the collection system as required, in violation of 30 TEX. ADMIN. CODE § 305.125(9), and TPDES Permit No. 13544002, Monitoring and Reporting Requirements, Noncompliance Notification No. 7. Specifically, 30 overflows occurred at the residential wet cells with grinder pumps during the 18 months prior to the current investigation, as documented during an investigation conducted on March 1, 2007.
3. Failed to collect effluent samples at the required frequency, in violation of 30 TEX. ADMIN. CODE § 319.5(b), and TPDES Permit No. 13544002, Monitoring and Reporting Requirements, Self-Reporting No. 1. Specifically, a review of self-monitoring data revealed that effluent samples were not taken during the first two weeks of November 2006, as documented during an investigation conducted on March 1, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Hull pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Hull'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: Hull Fresh Water Supply District, Docket No. 2007-0664-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 Hull shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operations guidance and conduct employee training to ensure that:
 - i. The Facility and all of its collection systems, including but not limited to: grinder pumps, electrical switches, electric power supplies, check valves to maintain

proper functions, float and float switches, and discharge lines, are properly maintained to prevent or minimize unauthorized discharges, in accordance with TPDES Permit No. 13544002;

- ii. All unauthorized discharges of wastewater are reported to the TCEQ, in accordance with TPDES Permit No. 13544002; and
 - iii. Provide the necessary training for personnel to ensure for the collection of samples and submission of properly completed monthly sampling reports, in accordance with TPDES Permit No. 13544002, Monitoring and Reporting Requirements.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 169A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Hull. Hull 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 Hull 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, Hull's failure to comply is not a violation of this Agreed Order. Hull shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred.

Hull shall notify the Executive Director within seven days after Hull 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 Hull shall be made in writing to the Executive Director. Extensions are not effective until Hull 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 Hull 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 Hull, or three days after the date on which the Commission mails notice of the Order to Hull, 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. ...
For the Executive Director

9/16/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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.

Wendell Nance Sr.
Signature

July 13, 2007
Date

Wendell Nance Sr.
Name (Printed or typed)
Authorized Representative of
Hull Fresh Water Supply District

President of WB
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.

