

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0648-MWD-E **TCEQ ID:** RN102336526 **CASE NO.:** 33284

RESPONDENT NAME: Galileo Mount Houston TX LP dba Mount Houston Utilities

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: Mount Houston Utilities, located approximately 680 feet north of the intersection of United States Highway 59 and Mount Houston Road, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</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 September 10, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Michael D. Axelrod, Registered Agent and Senior vice President, Galileo Mount Houston TX LP dba Mount Houston Utilities, 3901 Bellaire Boulevard, Houston, Texas 77025 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0648-MWD-E

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: March 19, 2007</p> <p>Date of NOE Relating to this Case: April 11, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. One violation was documented.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations, as shown in the attached table [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14144001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$5,310</p> <p>Total Deferred: \$1,062 <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: \$4,248</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, within 60 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit 14144001.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

TCEQ

DATES	Assigned	16-Apr-2007	Screening	23-Apr-2007	EPA Due	
	PCW	5-Jul-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Galileo Mount Houston TX LP dba Mount Houston Utilities		
Reg. Ent. Ref. No.	RN102336526		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33284	No. of Violations	1
Docket No.	2007-0648-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
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	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	82% Enhancement	Subtotals 2, 3, & 7	\$2,460
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Notes

The penalty is enhanced due to 11 self-reported effluent violations, one NOV with violations same or similar to those cited in this action, one NOV with violations not same or similar to those cited in this action and one agreed enforcement order containing a denial of liability.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria.

Total EB Amounts	\$1,341	0% Enhancement*	Subtotal 6	\$0
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Approx. Cost of Compliance \$10,000 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,460
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-3%	Adjustment	-\$150
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommend reduction in penalty so that monthly self-reported violations do not overly-impact the penalty amount.

Final Penalty Amount	\$5,310
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,310
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DEFERRAL	20% Reduction	Adjustment	-\$1,062
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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	\$4,248
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Screening Date 23-Apr-2007

Docket No. 2007-0648-MWD-E

PCW

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilitie

Policy Revision 2 (September 2002)

Case ID No. 33284

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

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)	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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) 82%

>> 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 penalty is enhanced due to 11 self-reported effluent violations, one NOV with violations same or similar to those cited in this action, one NOV with violations not same or similar to those cited in this action and one agreed enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

Screening Date 23-Apr-2007

Docket No. 2007-0648-MWD-E

PCW

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities

Policy Revision 2 (September 2002)

Case ID No. 33284

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14144001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also considered. As a result of this violation, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

181 Number of violation days

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,341

Violation Final Penalty Total \$5,310

This violation Final Assessed Penalty (adjusted for limits) \$5,310

Economic Benefit Worksheet

Respondent: Galleo Mount Houston TX LP dba Mount Houston Utilities
Case ID No.: 33284
Reg. Ent. Reference No.: RN102336526
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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Jan-2006	31-Dec-2007	1.9	\$64	\$1,277	\$1,341
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to investigate the reason for noncompliance and to make adjustments or repairs at the Facility.
Date required is the first month of noncompliance. 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

Approx. Cost of Compliance

\$10,000

TOTAL

\$1,341

EFFLUENT VIOLATION TABLE

Galileo Mount Houston TX LP dba Mount Houston Utilities
 TPDES Permit No. 14144001
 Docket No. 2007-0648-MWD-E

Permitted Effluent Limits	Monitoring Period End Date					
	1/31/06	2/28/06	8/31/06	9/30/06	10/31/06	11/30/06
TSS daily avg. conc. Limit = 15.0 mg/L	15.6	c	28.5	23.0	c	68.2
TSS daily max. conc. Limit = 60 mg/L	c	c	c	c	c	187.5
NH3-N daily avg. conc. Limit = 3.0 mg/L	c	4.03	c	c	c	3.9
NH3-N daily max. conc. Limit = 15.0 mg/L	c	15.2	c	c	20.2	c
CBOD daily avg. conc. Limit = 10.0 mg/L	c	c	c	c	c	38.1
CBOD daily max. conc. Limit = 35.0 mg/L	c	c	c	c	c	99.4

avg. = average

max. = maximum

c = compliant

mg/L = milligrams per liter

CBOD = carbonaceous biochemical
oxygen demand

NH3-N = ammonia nitrogen

TSS = total suspended solids

conc. = concentration

Compliance History

Customer/Respondent/Owner-Operator: CN603205279 Galileo Mount Houston TX LP Classification: AVERAGE Rating: 2.03

Regulated Entity: RN102336526 MOUNT HOUSTON UTILITIES Classification: AVERAGE Site Rating: 2.03

ID Number(s): WASTEWATER PERMIT WQ0014144001
WASTEWATER PERMIT TPDES0120189
WASTEWATER PERMIT TX0120189

Location: LOCATED APPRX 680 FT N OF THE INTX OF US HWY 59 & MT HOUSTON RD, HARRIS CO, TX Rating Date: 9/1/2006
Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 5, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 5, 2002 to July 5, 2007

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

Name: Lynley Doyen Phone: 512-239-1364

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? Yes
3. If Yes, who is the current owner? Galileo Mount Houston TX LP
4. If Yes, who was/were the prior owner(s)? CA New Plan Texas Assets, L.P.
Center America Property Trust, L.P.
5. When did the change(s) in ownership occur? 08/10/2005
11/06/2003

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 05/23/2005

ADMINORDER 2004-0784-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
TWC Chapter 26 26.121(a)(1)

Rqmt Prov: Permit Condition No. 2.d. PERMIT

Description: Failure to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, sludge was noted in the receiving stream from the outfall to approximately 175 feet downstream of the outfall.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
TWC Chapter 26 26.121(a)(1)

Rqmt Prov: Effluent Limitations, No. 1 PERMIT

Description: Failure to maintain compliance with carbonaceous biochemical oxygen demand ("CBOD") single grab limit of 35.0 milligrams per liter ("mg/L") with a value of greater than 39.0 mg/L and total suspended solids ("TSS") single grab limit of 60.0 mg/L with a value of 334.0 mg/L.

- 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. (CEEDS Inv. Track. No.)

1 05/10/2002 (235757)
2 06/21/2002 (235758)
3 07/22/2002 (235759)
4 09/11/2002 (235760)
5 09/25/2002 (235762)
6 10/24/2002 (235764)
7 11/19/2002 (235766)
8 12/09/2002 (235768)
9 02/26/2003 (235753)
10 03/24/2003 (328131)
11 04/24/2003 (235756)
12 05/30/2003 (367454)
13 06/26/2003 (328123)

14 07/21/2003 (328125)
15 08/20/2003 (328126)
16 09/18/2003 (328127)
17 10/20/2003 (328128)
18 11/17/2003 (328129)
19 12/16/2003 (252681)
20 01/20/2004 (328132)
21 02/17/2004 (328120)
22 03/12/2004 (264639)
23 03/17/2004 (328121)
24 04/12/2004 (267482)
25 04/16/2004 (328122)
26 05/24/2004 (367455)
27 06/21/2004 (328124)
28 06/21/2004 (328130)
29 07/21/2004 (367456)
30 08/24/2004 (367457)
31 09/28/2004 (390310)
32 10/29/2004 (367458)
33 11/29/2004 (390311)
34 12/20/2004 (390312)
35 01/21/2005 (390313)
36 02/16/2005 (390309)
37 02/22/2005 (371520)
38 04/07/2005 (447798)
39 04/18/2005 (447799)
40 05/19/2005 (447800)
41 06/20/2005 (447801)
42 07/09/2005 (447802)
43 08/19/2005 (447803)
44 09/12/2005 (447804)
45 10/28/2005 (493008)
46 11/18/2005 (493009)
47 12/19/2005 (493010)
48 01/17/2006 (493011)
49 02/21/2006 (493007)
50 04/04/2006 (506559)
51 04/24/2006 (506560)
52 05/23/2006 (506561)
53 06/07/2006 (464361)
54 06/21/2006 (506562)
55 08/03/2006 (528732)
56 08/21/2006 (528733)
57 02/01/2007 (538532)
58 04/11/2007 (554292)

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

Date: 11/30/2002 (235768)

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 (328129)

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 (328130)

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: 12/19/2003 (252681)

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
Description: Failure to operate and maintain the wastewater treatment plant to prevent the discharge and accumulation of sludge in the receiving stream. Sludge was noted in the receiving stream on 10/21/03 and again on 11/04/03.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Description: Failure to report the discharge of sludge to the receiving stream in accordance with the permit. The unauthorized discharges occurred on 10/20/03 and 11/04/03.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
40 CFR Chapter 403, SubChapter N, PT 403 403.5
Description: Failure to prevent the introduction of pollutants which adversely affect the wastewater treatment plant. According to Shannon Marsh, operator, an unknown substance has entered the plant on 4 separate occasions since 09/03.

Self Report? NO Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) Description: Failure to maintain compliance with the permitted effluent limits.	Classification: Moderate
Date: 06/30/2004 (367456)	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 07/31/2004 (367457)	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 01/31/2006 (493007)	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 02/28/2006 (506559)	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 08/31/2006	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 09/30/2006	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 10/31/2006	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 11/30/2006	
Self Report? YES Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G] Description: Failure to meet the limit for one or more permit parameter	Classification: Moderate
Date: 06/07/2006 (464361)	
Self Report? NO 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) Rqmt Prov: PERMIT Operational Requirements, Number 1 Description: Failure to maintain the chlorinator.	Classification: Minor
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
GALILEO MOUNT HOUSTON TX LP
DBA MOUNT HOUSTON UTILITIES
RN102336526

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0648-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 Galileo Mount Houston TX LP dba Mount Houston Utilities ("Galileo") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Galileo appear before the Commission and together stipulate that:

1. Galileo owns a wastewater treatment facility located approximately 680 feet north of the intersection of United States Highway 59 and Mount Houston Road in Harris County, Texas (the "Facility").
2. Galileo has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Galileo agree that the Commission has jurisdiction to enter this Agreed Order, and that Galileo is subject to the Commission's jurisdiction.
4. Galileo received notice of the violations alleged in Section II ("Allegations") on or about April 16, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Galileo of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Three Hundred Ten Dollars (\$5,310) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Galileo has paid Four Thousand Two Hundred Forty-Eight Dollars (\$4,248) of the administrative penalty and One Thousand Sixty-Two Dollars (\$1,062) is deferred contingent upon Galileo'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 Galileo fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Galileo 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 Galileo 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 Galileo 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 of the Facility, Galileo is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14144001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on March 19, 2007 and as shown in the following table:

EFFLUENT VIOLATION TABLE						
Permitted Effluent Limits	Monitoring Period End Date					
	1/31/06	2/28/06	8/31/06	9/30/06	10/31/06	11/30/06
TSS daily avg. conc. Limit = 15.0 mg/L	15.6	c	28.5	23.0	c	68.2
TSS daily max. conc. Limit = 60 mg/L	c	c	c	c	c	187.5
NH3-N daily avg. conc. Limit = 3.0 mg/L	c	4.03	c	c	c	3.9
NH3-N daily max. conc. Limit = 15.0 mg/L	c	15.2	c	c	20.2	c
CBOD daily avg. conc. Limit = 10.0 mg/L	c	c	c	c	c	38.1
CBOD daily max. conc. Limit = 35.0 mg/L	c	c	c	c	c	99.4

avg. = average

c = compliant

CBOD = carbonaceous biochemical
oxygen demand

conc. = concentration

max. = maximum

mg/L = milligrams per liter

NH3-N = ammonia nitrogen

TSS = total suspended solids

III. DENIALS

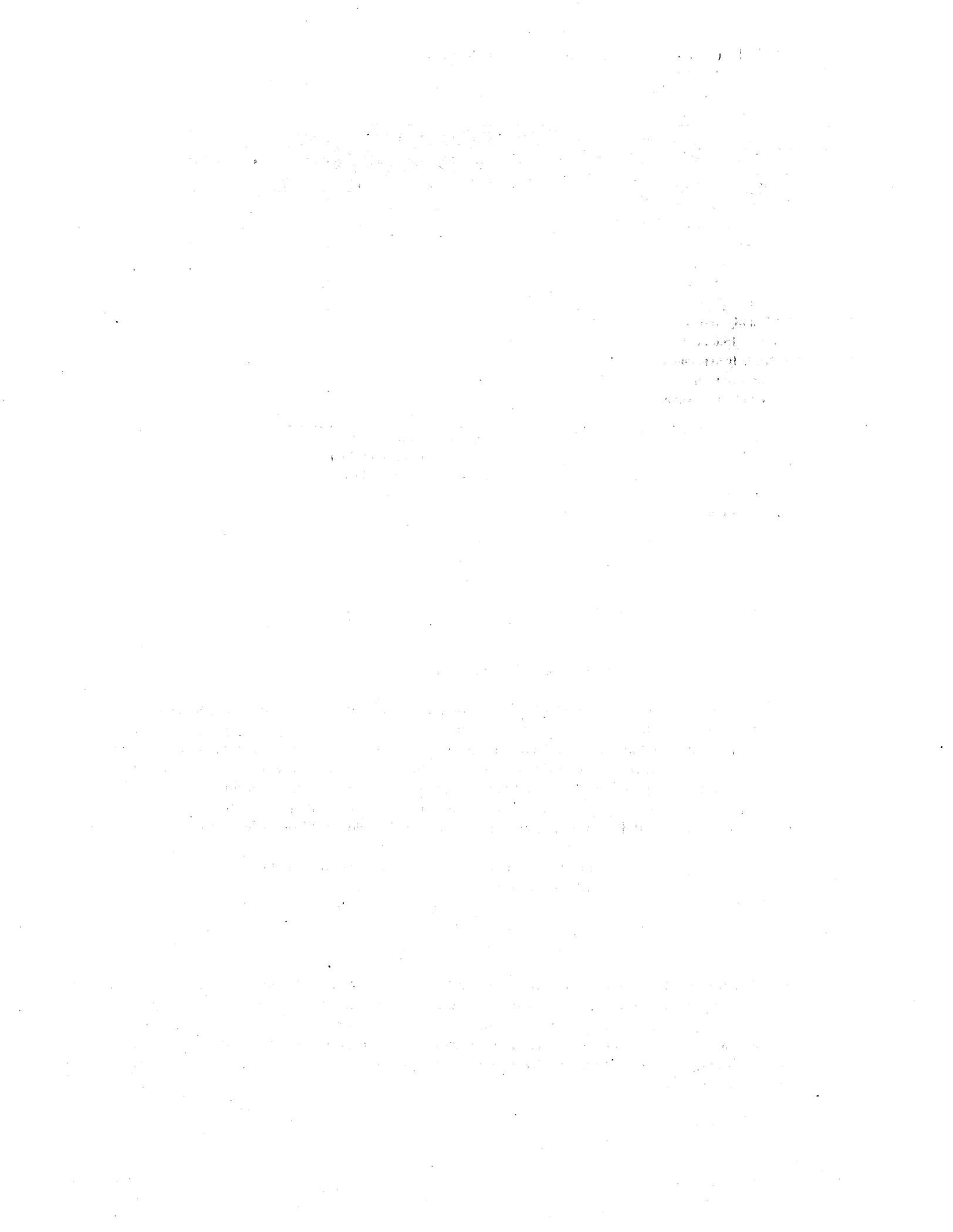
Galileo generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Galileo pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Galileo'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: Galileo Mount Houston TX LP dba Mount Houston Utilities, Docket No. 2007-0648-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 within 60 days after the effective date of this Agreed Order, Galileo shall submit certification of compliance with the permitted effluent limitations of TPDES Permit 14144001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
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 Galileo. Galileo 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 Galileo 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, Galileo's failure to comply is not a violation of this Agreed Order. Galileo shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Galileo shall notify the Executive Director within seven days after Galileo 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 Galileo shall be made in writing to the Executive Director. Extensions are not effective until Galileo 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 Galileo 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 Galileo, or three days after the date on which the Commission mails notice of the Order to Galileo, 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 8/27/07

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:

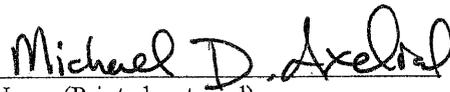
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement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



Signature

Date 7/6/07



Name (Printed or typed)
Authorized Representative of
Galileo Mount Houston TX LP
dba Mount Houston Utilities

Title SVP

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.

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