

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2006-1073-MWD-E    **TCEQ ID:** RN101919975    **CASE NO.:** 30309  
**RESPONDENT NAME:** City of Hidalgo

**ORDER TYPE:**

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input checked="" type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** City of Hidalgo wastewater facility, located east of the City of Hidalgo, approximately 0.5 mile north of United States Highway 281 and 0.5 mile east of Farm-to-Market Road 336, Hidalgo County

**TYPE OF OPERATION:** Domestic wastewater facility

**SMALL BUSINESS:**     Yes     No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on February 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Mr. Ruben Soto, Enforcement Division, Enforcement Section I, MC 169, (512) 239-4571; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Respondent:** Mr. Joe Vera, III, City Manager, City of Hidalgo, 704 East Texano Drive, Hidalgo, Texas 78557

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 13, 2006</p> <p>Date of NOE Relating to this Case: June 29, 2006 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p><b>WATER</b></p> <p>Failed to comply with permit effluent limits [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 11080001, Final Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$25,000</p> <p>Total Deferred: \$5,000  <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: \$20,000</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11080001.</p>



# Penalty Calculation Worksheet (PCW)

<b>DATES</b>	Assigned	10-Jul-2006	Screening	13-Jul-2006	EPA Due	05-Jun-2006
	PCW	05-Oct-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Hidalgo
Reg. Ent. Ref. No.	RN101919975
Facility/Site Region	15-Harlingen
Major/Minor Source	Major Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	30309	No. of Violations	1
Docket No.	2006-1073-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Ruben Soto
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$10,000
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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.

<b>Compliance History</b>	203% Enhancement	Subtotals 2, 3, & 7	\$20,300
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Notes: The Respondent self-reported 35 months of effluent quality violations with same or similar violations as those cited in this action, received four Commission issued NOV's without same or similar violations as those cited in this action and one Commission issued Agreed Order with denial of liability.

<b>Culpability</b>	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet culpability criteria.

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

Notes: The Respondent does not meet the good faith criteria.

<b>Economic Benefit</b>	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$700	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$30,300
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	17% Reduction	Adjustment	-\$5,300
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes: Reduction recommended for other factors as justice may require.

<b>Final Penalty Amount</b>	\$25,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$25,000
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<b>DEFERRAL</b>	20% Reduction	Adjustment	-\$5,000
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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.

<b>PAYABLE PENALTY</b>	\$20,000
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Screening Date	13-Jul-2006	Docket No.	2006-1073-MWD-E	PCW
Respondent	City of Hidalgo	Policy Revision 2 (September 2002)		
Case ID No.	30309	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101919975			
Media Statute	Water Quality			
Enf. Coordinator	Ruben Soto			

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	35	175%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)	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%
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) 203%

>> 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 35 months of effluent quality violations with same or similar violations as those cited in this action, received four Commission issued NOV's without same or similar violations as those cited in this action and one Commission issued Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 203%

Screening Date 13-Jul-2006

Docket No. 2006-1073-MWD-E

PCW

Respondent City of Hidalgo

Policy Revision 2 (September 2002)

Case ID No. 30309

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101919975

Media [Statute] Water Quality

Enf. Coordinator Ruben Soto

Violation Number

Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 11080001, Final Effluent Limitations and Monitoring Requirements No. 1.
Secondary Rule Cite(s)	
Violation Description	Failure to comply with permit effluent limits, as documented during a record review conducted on June 13, 2006. See attached chart.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual			X	Percent <input type="text" value="25%"/>
	Potential				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent <input type="text"/>
Matrix Notes	<p>A simplified model was utilized to evaluate the values for ammonia nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. In addition, flow reported values were also considered. 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.</p>					

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

**Economic Benefit Worksheet**

Respondent City of Hidalgo  
 Case ID No. 30309  
 Reg. Ent. Reference No. RN101919975  
 Media [Statute] Water Quality  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
<b>Delayed Costs</b>							
Equipment	\$5,000	30-Apr-2005	30-Apr-2007	2.0	\$33	\$667	\$700
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to prevent the noncompliance of Ammonia Nitrogen by injecting air into the lift station near the source of influent. The City will install an air compressor; panel box; a line to inject air into the lift station and electrical work. The date required is the first month of noncompliance and the final date is the date of anticipated compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Respondent: City of Hidalgo  
 Docket Number: 2006-1073-MWD-E

Corresponds with violation number: 1

Month/Year	NH <sub>3</sub> -N Dly. Avg. Ldg. Limit: 30 lbs/day	NH <sub>3</sub> -N Dly. Avg. Conc. Limit: 3 mg/L	NH <sub>3</sub> -N Max. Conc. Limit: 10 mg/L	Flow 2 Hour Peak Limit: 2111 gpm	CBOD Dly. Avg. Conc. Limit: 10 mg/L
April 2005	c	4.3	10.9	c	c
June 2005	c	c	12.6	c	c
July 2005	c	c	c	2778	c
December 2005	46	6.8	12.9	c	c
January 2006	92.3	13.05	21.1	c	c
February 2006	c	c	c	c	11

NH<sub>3</sub>-N = Ammonia Nitrogen    CBOD = carbonaceous biochemical oxygen demand    Dly. = daily average  
 Ldg. = loading    Conc. = concentration    Max. = maximum    gpm = gallons per minute  
 lbs/day = pounds per day    mg/L = milligrams per liter    c = in compliance



## Compliance History

Customer/Respondent/Owner-Operator: CN600692529 City of Hidalgo Classification: AVERAGE Rating: 3.33

Regulated Entity: RN101919975 CITY OF HIDALGO Classification: AVERAGE Site Rating: 4.32

ID Number(s): WASTEWATER PERMIT WQ0011080001  
 WASTEWATER PERMIT TPDES0058386  
 WASTEWATER PERMIT TX0058386  
 WASTEWATER LICENSING LICENSE WQ0011080001  
 SLUDGE REGISTRATION 23448

Location: Located east of the City of Hidalgo, approximately 0.5 mile north of United States Highway 281 and 0.5 mile east of Farm-to-Market Road 336, Hidalgo County. Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: July 13, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 13, 2001 to July 13, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Ruben Soto Phone: 512 239-4571

### Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- Effective Date: 08/28/2004 ADMINORDER 2002-0946-MWD-E  
 Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 Rqmt Prov: OR 1 PG 7 PERMIT  
 Description: Failure to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated, specifically failed to ensure that the areas along the northern and western ends of the facility are fenced. Permit No. 11080-001, Operational Requirements 1.
- Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.4(c)  
 Rqmt Prov: OR 1 PG 7 PERMIT  
 Description: Failure to ensure at all times that the facility and all of its systems of collection, treatment and disposal are properly operated, specifically failed to measure the influent. Permit No. 11080-001, Operational Requirements 1.
- Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.3(e)(5)  
 Rqmt Prov: OR 1 PG 7 PERMIT  
 Description: Failure to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are properly operated, specifically failed to have an operational audiovisual alarm system at lift station 7. Permit No. 11080-001, Operational Requirements 1
- Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
 30 TAC Chapter 317 317.4(a)(8)  
 Rqmt Prov: OR 1 PG 7 PERMIT  
 Description: Failure to ensure at all times that the facility and all of its systems of collection, treatment, and disposal are

properly operated, specifically failed to equip the water connection from PWS at lift station 7 with an air gap or back flow prevention devices. Permit No. 11080-001, Operational Requirements 1

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: OR 1 PG 7 PERMIT

Description: Failure to ensure at all times that the facility and all of its systems of collection; treatment and disposal are properly operated, specifically failed to maintain the facility grounds free of brush, debris, trash and used tires. Permit No. 11080-001, Operational Requirements 1

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 03/15/2002 (IE0009188003001)  
2 05/20/2002 (190277)  
3 04/02/2003 (247143)  
4 07/18/2003 (190278)  
5 04/10/2003 (27615)  
6 06/18/2002 (190281)  
7 08/06/2002 (247144)  
8 08/15/2005 (443783)  
9 07/18/2003 (190282)  
10 09/19/2005 (443784)  
11 10/30/2003 (253764)  
12 01/05/2005 (342768)  
13 07/19/2001 (190284)  
14 07/18/2002 (190285)  
15 02/17/2004 (309077)  
16 07/18/2003 (190286)  
17 07/31/2001 (309078)  
18 07/31/2001 (309079)  
19 07/16/2004 (282657)  
20 08/12/2002 (190288)  
21 07/31/2001 (309081)  
22 08/01/2003 (147845)  
23 08/12/2002 (190289)  
24 03/19/2004 (309083)  
25 04/19/2004 (309084)  
26 09/24/2001 (190291)  
27 07/31/2001 (309085)  
28 10/19/2001 (190293)  
29 05/17/2004 (309087)  
30 07/31/2001 (309088)  
31 06/17/2004 (309090)  
32 11/16/2001 (190296)  
33 05/17/2004 (309092)  
34 07/31/2001 (309093)  
35 04/22/2005 (422878)  
36 05/19/2005 (422879)  
37 08/20/2003 (309095)  
38 12/27/2001 (190299)  
39 06/20/2005 (422880)  
40 07/21/2005 (422881)  
41 12/30/2002 (190300)  
42 09/19/2003 (309097)  
43 03/02/2006 (456002)  
44 10/20/2003 (309099)  
45 01/22/2002 (190303)  
46 08/26/2004 (357654)  
47 11/17/2003 (309100)  
48 09/13/2004 (357655)  
49 01/21/2003 (190304)  
50 10/21/2004 (357656)  
51 12/15/2003 (309101)

52 11/17/2004 (357657)  
53 07/05/2006 (482459)  
54 05/20/2005 (375773)  
55 01/20/2004 (309103)  
56 05/17/2004 (309104)  
57 02/25/2005 (384903)  
58 03/18/2005 (384904)  
59 12/20/2004 (384905)  
60 09/16/2003 (248870)  
61 02/19/2002 (190264)  
62 05/05/2004 (266862)  
63 07/18/2003 (190265)  
64 03/25/2002 (190267)  
65 07/18/2003 (190268)  
66 04/10/2003 (190270)  
67 08/20/2001 (39491)  
68 04/17/2002 (190273)  
69 07/18/2003 (190274)

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

Date: 03/31/2003 (190274)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2002 (190277)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (190278)

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: 04/02/2003 (247143)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2002 (190281)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (190282)

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: 08/06/2002 (247144)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 06/30/2002 (190285)  
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 (309077)  
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 (190286)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2001 (190288)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2002 (190289)  
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 (309084)  
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: 08/31/2001 (190291)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2001 (190293)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2001 (190296)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2005 (422879)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (309095)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2001 (190299)  
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: 06/30/2005 (422881)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2002 (190300)  
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: 04/11/2003 (27615)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Rqmt Prov: OP IA  
Description: Failure to at all times ensure that the facility and all of its systems of collection treatment and disposal are properly operated.

Date: 08/31/2003 (309097)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (309099)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2001 (190303)  
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 (309100)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2002 (190304)  
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 (309101)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (357657)  
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: 05/03/2004 (266862)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
Rqmt Prov: PERMIT IA  
Description: Failure to at all times ensure that the facility and all of its systems of collection treatment and disposal are properly operated and maintained including the regular, periodic examination of wastewater solids within the treatment plant.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT IA  
Description: Failure to report annual average flow.

Date: 07/31/2005

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2006

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2002 (190264)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (190265)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2002 (190267)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (190268)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2002 (190273)

Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF HIDALGO  
RN101919975

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2006-1073-MWD-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Hidalgo ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater facility located east of the City of Hidalgo, approximately 0.5 mile north of United States Highway 281 and 0.5 mile east of Farm-to-Market Road 336 in Hidalgo County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 4, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Five Thousand Dollars (\$25,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The City has paid Twenty Thousand Dollars (\$20,000) of the administrative penalty and Five Thousand Dollars (\$5,000) is deferred contingent upon the City'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 City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.



7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
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 City is alleged to have failed to comply with permit effluent limits as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 11080001, Final Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on June 13, 2006.

Month/Year	NH <sub>3</sub> -N Dly. Avg. Ldg. Limit: 30 lbs/day	NH <sub>3</sub> -N Dly. Avg. Conc. Limit: 3 mg/L	NH <sub>3</sub> -N Max. Conc. Limit: 10 mg/L	Flow 2 Hour Peak Limit: 2111 gpm	CBOD Dly. Avg. Conc. Limit: 10 mg/L
April 2005	c	4.3	10.9	c	c
June 2005	c	c	12.6	c	c
July 2005	c	c	c	2778	c
December 2005	46	6.8	12.9	c	c
January 2006	92.3	13.05	21.1	c	c
February 2006	c	c	c	c	11

NH<sub>3</sub>-N = Ammonia Nitrogen    CBOD = carbonaceous biochemical oxygen demand    Dly. = daily average  
Ldg. = loading    Conc. = concentration    Max. = maximum    gpm = gallons per minute  
lbs/day = pounds per day    mg/L = milligrams per liter    c = in compliance



### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: the City of Hidalgo, Docket No. 2006-1073-MWD-E" to:

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

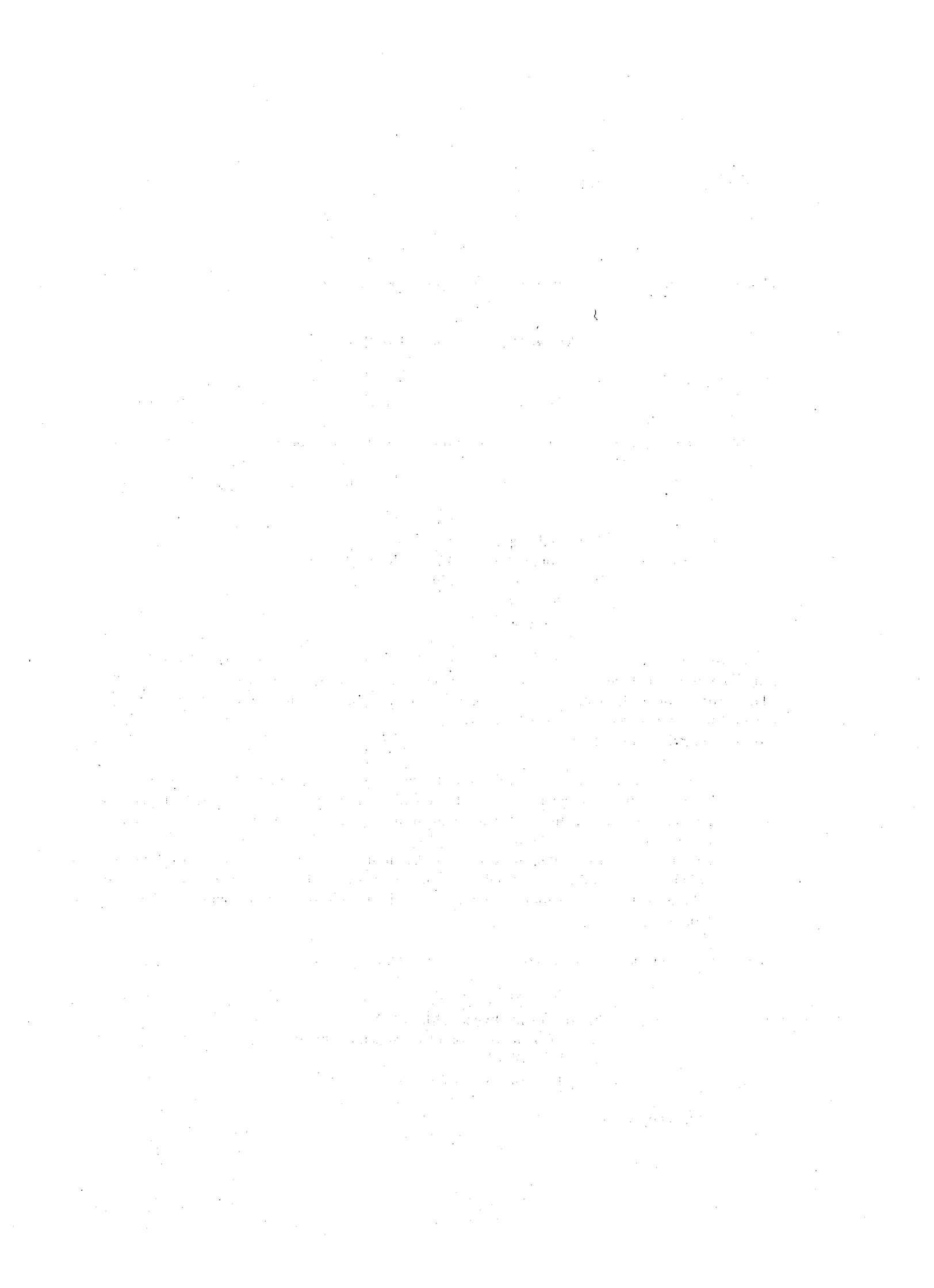
2. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 11080001. The certification shall include detailed supporting documentation including receipts, and or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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



Manager, Water Section  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Ave.  
Harlingen, Texas 78550-5247

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



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

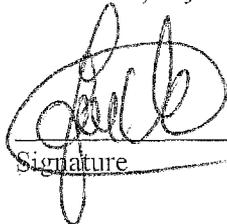
3/2/07  
\_\_\_\_\_  
Date

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, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
\_\_\_\_\_  
Signature

November 13, 2006  
\_\_\_\_\_  
Date

Joe Vera III  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Hidalgo

City Manager  
\_\_\_\_\_  
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.

