

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2005-1937-MWD-E TCEQ ID: RN101919884 CASE NO.: 27351
RESPONDENT NAME: CITY OF JACINTO CITY

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

SITE WHERE VIOLATION(S) OCCURRED: Southeast of the Market Street Bridge over Hunting Bayou, Jacinto City, Harris County

TYPE OF OPERATION: Wastewater treatment 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 April 23, 2007. No comments were received.

CONTACTS AND MAILING LIST:

- SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
- TCEQ Attorney:** Mr. Mark Curnutt, Litigation Division, MC 175, (512) 239-0624
 Ms. Jennifer Cook Litigation Division, MC 175, (512) 239-1873
- TCEQ Enforcement Coordinator:** Ms. Catherine Albrecht, Enforcement Division, Section I, MC R-12, (713) 767-3672
- TCEQ Regional Contact:** Mr. Stephen Smith, Houston Regional Office, MC R-12 (713) 767-3581
- Respondent:** The Honorable Mike Jackson, Mayor of City of Jacinto City, 10301 Market Street Road, Jacinto City, Texas 77029
- Respondent's Attorney:** Mr. Jim DeFoyd, DeFoyd & Associates, P.C., 1612 Richmond St. Houston, Texas, 77006

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" 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: September 12, 2005</p> <p>Date of NOV/NOE Relating to this Case: November, 8, 2005 (NOE)</p> <p>Background Facts: An EDRP was filed on April 10, 2006. On May 1, 2006, the Respondent filed an answer and requested a hearing. An Agreed Order was signed on February 14, 2007.</p> <p>MWD: Failed to maintain compliance with the permitted effluent limitations during February, March, April, and May, 2005 [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. 10195001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$6,823</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$6,823</p> <p>Total Paid (Due) to General Revenue: \$0 The \$6,823 administrative penalty is conditionally offset pending completion of a Supplemental Environmental Project.</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent completed a collection system rehabilitation project and installed an aeration system in the lift station at the Facility, enabling it to achieve compliance permitted effluent limits on August 31, 2005.</p> <p>Ordering Provision:</p> <p>The Respondent shall implement and complete a Supplemental Environmental Project ("SEP"). The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement. (See Attachment "A")</p>

Attachment A

Docket Numbers: 2005-1937-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Jacinto City
Penalty Amount: Six Thousand Eight Hundred Twenty-three Dollars (\$6,823)
SEP Offset Amount: Six Thousand Eight Hundred Twenty-three Dollars (\$6,823)
Type of SEP: Custom
Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day household hazardous waste (such as motor oils, paint, pesticides, fertilizers, and used batteries), used tires, mercury-containing thermometers, and used electronics (E-waste) collection event. The collection event must include recycling of electronics and mercury.

Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees;
- is advertised in:
 - a newspaper of large circulation in the geographic area,
 - posted on City marquis

Respondent shall collect, transport, and dispose of the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the event, disposal fees, and recycling costs.

Respondent shall perform this project in accordance with all federal, state and local laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action. This event is an additional and expanded event that Respondent has agreed to perform.

B. Environmental Benefit

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Removal of the waste tires will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes (“CRT”) are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

The mercury collection portion of the event will help reduce human exposure to mercury from broken thermometers and potentially reduce the amount of mercury reaching the environment due to improper disposal of mercury-containing items. Human exposure to mercury may result in neurological impairment in infants whose mothers were exposed to mercury during pregnancy, impairment of peripheral vision; disturbances in sensations (“pins and needles” feelings, usually in the hands, feet, and around the mouth); lack of coordination of movements; impairment of speech, hearing, walking; and muscle weakness. Mercury in the air may settle into water bodies and affect water quality. This airborne mercury can fall to the ground in raindrops, in dust, or simply due to gravity (known as “air deposition”). After the mercury falls, it can end up in streams, lakes, or estuaries, where it can be transferred to methylmercury through microbial activity. Methylmercury accumulates in fish at levels that may harm the fish and the other animals that eat them.

Birds and mammals that eat fish are more exposed to methylmercury than any other animals in water ecosystems. Similarly, predators that eat fish-eating animals are at risk. Methylmercury has been found in eagles, otters, and larger mammals. Studies suggest that some highly-exposed wildlife species are being harmed by methylmercury. Effects of methylmercury exposure on wildlife can include mortality (death), reduced fertility, slower growth and development and abnormal behavior that affects survival, depending on the level of exposure. In addition, research indicates that the endocrine system of fish, which plays an important role in fish development and reproduction, may be altered by the levels of methylmercury found in the environment.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. **Performance Schedule**

Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. **Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 45 days after completion of the project, Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, batteries, pounds of electronic waste;
5. Manifests and receipts showing proper disposal of the wastes;
6. Photographs of the project; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. **Additional Information and Access**

Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. Respondent shall also allow a representative of the

City of Jacinto City
Agreed Order – Attachment A 2005-1937-MWD-E

TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	07-Nov-2005	Screening	15-Nov-2005	EPA Due	09-Jun-2006
	PCW	25-Jul-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Jacinto City
Reg. Ent. Ref. No.	RN101919884
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	27351	No. of Violations	1
Docket No.	2005-1937-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>
N/A	<input type="text" value="(mark with a small x)"/>

Notes

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	<input type="text" value="\$506"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$13,500"/>	

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

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

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 15-Nov-2005 **Docket No.** 2005-1937-MWD-E **PCW**
Respondent City of Jacinto City *Policy Revision 2 (September 2002)*
Case ID No. 27351 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101919884
Media [Statute] Water Quality
Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	12	60%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	<i>disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)</i>	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) **64%**

>> **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 has 11 self-reported effluent violations, one NOV with same violations, and two NOVs for other violations at this facility during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **64%**

Screening Date 15-Nov-2005	Docket No. 2005-1937-MWD-E	PCW
Respondent City of Jacinto City		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 27351		<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No. RN101919884		
Media [Statute] Water Quality		
Enf. Coordinator Catherine Albrecht		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. 10195001, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)	
Secondary Rule Cite(s)		
Violation Description	Failure to maintain compliance with the permitted effluent limitations. See attached table.	
	Base Penalty	\$10,000

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent <input type="text" value=""/>

Matrix Notes A simplified model was used to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	<table border="0" style="width: 100%;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">X</td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black; width: 50px; height: 15px;"></td></tr> </table>	daily		monthly		quarterly	X	semiannual		annual		single event	
daily													
monthly													
quarterly	X												
semiannual													
annual													
single event													

Violation Base Penalty

Two quarterly events are recommended for February 2005 through May 2005 violations.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Jacinto City
 Case ID No. 27351
 Reg. Ent. Reference No. RN101919884
 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	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	\$10,000	01-Feb-2005	31-Aug-2005	0.6	\$19	\$385	\$405
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)	\$3,500	01-Feb-2005	31-Aug-2005	0.6	\$101	n/a	\$101

Notes for DELAYED costs: Estimated costs of installing an aerator and blower in the on-site lift station is \$5,000, repairs to the two sludge return pumps is \$5000, and the costs of additional inspection and monitoring of the treatment plant is based on \$500 per month. Date required is the beginning of the violation period. Final dates are the date of the completion of the aerator installation to improve treatment to maintain compliance with the effluent limits.

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 **\$13,500**

TOTAL \$506

Summary Chart-Effluent Limitation Violations

Month/Year	NH3-N Dly Avg Conc Limit of 3.0 (in mg/L)	NH3-N Dly Max Conc Limit of 10.0 (in mg/L)	NH3-N Dly Avg Loading Limit of 41.0 (in lbs/day)	TSS Dly Max Conc Limit of 40.0 (in mg/L)	Flow, Two-Hour Peak Limit of 3284 (in gpm)
February 2005	c	c	c	c	4721
March 2005	c	c	c	61.4	c
April 2005	6.1	13.2	c	c	c
May 2005	9.0	15.6	50.47	c	c

Abbreviations:

Ammonia-Nitrogen ("NH3-N") Concentration ("Conc")

Total Suspended Solids ("TSS") gallons per minute ("gpm")

Daily ("Dly") pounds per day ("lbs/day")

Average (Avg") milligrams per liter ("mg/L")

Maximum ("Max") compliant ("c")

Compliance History

Customer/Respondent/Owner-Operator: CN600632459 City of Jacinto City Classification: AVERAGE Rating: 2.170

Regulated Entity: RN101919884 CITY OF JACINTO CITY Classification: AVERAGE Site Rating: 0.51

ID Number(s): WASTEWATER LICENSING LICENSE WQ0010195001
 WASTEWATER PERMIT TPDES0053970
 WASTEWATER PERMIT WQ0010195001

Location: Just southeast of the Market Street Bridge over Hunting Bayou, Jacinto City, Harris County Rating Date: 9/1/05 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 6, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 6, 2000 to December 6, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Catherine Albrecht Phone: (713)767-3672

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 |
| 6. Comments: | |

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.	04/20/2001	(131304)
2.	03/07/2003	(23993)
3.	01/31/2003	(185730)
4.	04/02/2002	(247065)
5.	01/28/2002	(185729)
6.	01/25/2001	(185728)
7.	11/04/2005	(431676)
8.	12/23/2002	(185726)
9.	12/19/2001	(185725)
10.	02/20/2004	(307091)
11.	12/19/2001	(247067)
12.	02/15/2005	(384447)
13.	12/02/2002	(185722)
14.	03/28/2005	(384448)
15.	03/16/2004	(307093)
16.	11/19/2001	(185721)
17.	12/27/2004	(384449)
18.	05/03/2004	(307094)
19.	11/22/2000	(185720)
20.	01/19/2005	(384450)
21.	06/04/2004	(307096)

22. 10/30/2002 (185718)
 23. 11/01/2001 (185717)
 24. 06/29/2004 (307098)
 25. 03/03/2003 (185715)
 26. 07/30/2003 (307100)
 27. 09/27/2001 (185714)
 28. 04/22/2005 (378667)
 29. 03/03/2003 (185712)
 30. 08/28/2003 (307102)
 31. 08/29/2001 (185711)
 32. 09/18/2003 (307104)
 33. 07/30/2002 (185709)
 34. 07/27/2001 (185708)
 35. 10/30/2003 (307106)
 36. 12/05/2003 (307107)
 37. 06/30/2003 (185706)
 38. 01/05/2004 (307108)
 39. 03/03/2003 (185705)
 40. 01/21/2004 (307109)
 41. 06/25/2001 (185704)
 42. 11/22/2000 (185703)
 43. 05/21/2003 (185702)
 44. 03/03/2003 (185701)
 45. 05/30/2001 (185700)
 46. 04/14/2003 (185698)
 47. 04/29/2002 (185697)
 48. 05/01/2001 (185696)
 49. 11/22/2000 (185695)
 50. 11/22/2000 (185694)
 51. 03/18/2003 (185693)
 52. 03/27/2002 (185692)
 53. 03/03/2003 (185691)
 54. 02/21/2003 (185689)
 55. 02/21/2002 (185688)
 56. 02/26/2001 (185687)
 57. 11/22/2000 (185686)
 58. 02/26/2001 (185685)
 59. 07/15/2004 (356743)
 60. 09/16/2004 (356744)
 61. 09/17/2004 (356745)
 62. 10/18/2004 (356746)
 63. 11/29/2004 (356747)
 64. 03/11/2005 (351197)
 65. 05/03/2004
 66. 06/04/2004
 67. 06/29/2004
 68. 03/28/2005
 69. 04/25/2005
 70. 05/31/2005
 71. 07/07/2005

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

Date: 12/31/2002 (185730)
 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: 12/31/2000 (185728)
 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: 04/02/2002 (247065)
 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: 12/19/2001 (247067)
 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: 06/30/2003 (307100)
 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: 02/28/2001 (185691)
 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: 03/11/2005 (351197)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IA
 Description: Failure to collect composite samples, as required.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to correctly complete the monthly discharge monitoring reports (DMRs).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Rqmt Prov: PERMIT IA
 Description: Failure to provide the 03/04, 04/04, and 05/04 discharge monitoring reports (DMRs) for review during the investigation.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
 Description: Failure to report the correct ammonia-nitrogen (NH3-N) values on the 03/04, 04/04, and 05/04 discharge monitoring reports (DMRs).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IA
 Description: Failure to maintain compliance with the permit limits for ammonia-nitrogen (NH3-N).

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

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

Date: 05/31/2005
 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
AGAINST CITY OF JACINTO CITY;
RN101919884

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1937-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Jacinto City ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Mr. Jim L. DeFoyd of the law firm of DeFoyd & Associates, P.C., appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located southeast of the Market Street Bridge over Hunting Bayou, Jacinto City, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
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 November 8, 2005.
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 six thousand eight hundred and twenty-three dollars (\$6,823.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six thousand eight hundred and twenty-three dollars (\$6,823.00) of the administrative penalty of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City completed a collection system rehabilitation project and installed an aeration system in the lift station at the Facility, enabling it to achieve compliance with its permitted effluent limits as of August 31, 2005.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

The City is alleged to have violated 30 TEX. ADMIN. CODE § 305.125(1); Texas Pollutant Discharge Elimination System Permit No. 10195001, Effluent Limitations and Monitoring Requirements No. 1; and TEX. WATER CODE § 26.121(a), by failing to maintain compliance with the permitted effluent limitations during February, March, April, and May, 2005, as documented during a record review conducted on September 12, 2005.

III. DENIALS

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

IV. ORDER

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 considering requiring corrective action or penalties for violations which are not raised here.
2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067 and as set forth in Section I, Paragraph 6, above. Six thousand eight hundred twenty-three dollars (\$6,823.00) of the assessed administrative penalty shall be offset with the condition that the City implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order 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

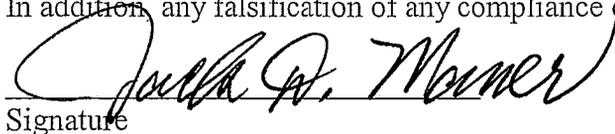
4/29/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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

2/14/07
Date

JACK D. MANER
Name (Printed or typed)
Authorized representative of
City of Jacinto City

CITY MANAGER
Title

Attachment A

Docket Numbers: 2005-1937-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Jacinto City
Penalty Amount:	Six Thousand Eight Hundred Twenty-three Dollars (\$6,823)
SEP Offset Amount:	Six Thousand Eight Hundred Twenty-three Dollars (\$6,823)
Type of SEP:	Custom
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day household hazardous waste (such as motor oils, paint, pesticides, fertilizers, and used batteries), used tires, mercury-containing thermometers, and used electronics (E-waste) collection event. The collection event must include recycling of electronics and mercury.

Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees;
- is advertised in:
 - a newspaper of large circulation in the geographic area,
 - posted on City marquis

Respondent shall collect, transport, and dispose of the collected wastes. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the event, disposal fees, and recycling costs.

Respondent shall perform this project in accordance with all federal, state and local laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action. This event is an additional and expanded event that Respondent has agreed to perform.

B. Environmental Benefit

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping. Removal of the waste tires will help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The cleanup will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

The recycling portion of the event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes (“CRT”) are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to environmentally sensitive recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

The mercury collection portion of the event will help reduce human exposure to mercury from broken thermometers and potentially reduce the amount of mercury reaching the environment due to improper disposal of mercury-containing items. Human exposure to mercury may result in neurological impairment in infants whose mothers were exposed to mercury during pregnancy, impairment of peripheral vision; disturbances in sensations (“pins and needles” feelings, usually in the hands, feet, and around the mouth); lack of coordination of movements; impairment of speech, hearing, walking; and muscle weakness. Mercury in the air may settle into water bodies and affect water quality. This airborne mercury can fall to the ground in raindrops, in dust, or simply due to gravity (known as “air deposition”). After the mercury falls, it can end up in streams, lakes, or estuaries, where it can be transferred to methylmercury through microbial activity. Methylmercury accumulates in fish at levels that may harm the fish and the other animals that eat them.

Birds and mammals that eat fish are more exposed to methylmercury than any other animals in water ecosystems. Similarly, predators that eat fish-eating animals are at risk. Methylmercury has been found in eagles, otters, and larger mammals. Studies suggest that some highly-exposed wildlife species are being harmed by methylmercury. Effects of methylmercury exposure on wildlife can include mortality (death), reduced fertility, slower growth and development and abnormal behavior that affects survival, depending on the level of exposure. In addition, research indicates that the endocrine system of fish, which plays an important role in fish development and reproduction, may be altered by the levels of methylmercury found in the environment.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. **Performance Schedule**

Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. **Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 45 days after completion of the project, Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of tires, batteries, pounds of electronic waste;
5. Manifests and receipts showing proper disposal of the wastes;
6. Photographs of the project; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. **Additional Information and Access**

Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. Respondent shall also allow a representative of the

City of Jacinto City
Agreed Order – Attachment A 2005-1937-MWD-E

TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. Respondent agrees that it will contribute any monetary shortages in the Offset amount after performance of the project to TCEQ within 120 days of completion of the project.

In the event of incomplete performance, Respondent shall include the docket number of this Agreed Order and a note with any payment, explaining that the payment is for a SEP reimbursement. The payment for any amount due shall be made out to the "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must also clearly state that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.