EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2197-MWD-E **TCEQ ID:** RN102179033 **CASE NO.:** 31968

RESPONDENT NAME: Port of Houston Authority

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: General Cargo Plant, 16800 Peninsula Boulevard, Houston, Harris County

TYPE OF OPERATION: Domestic wastewater system

SMALL BUSINESS: ___ Yes __X__ 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 30, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Respondent: Mr. Wade Battles, Managing Director, Port of Houston Authority, P.O. Box 2562, Houston, Texas 77252-2562
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** November 15, 2006 **Date of NOE Relating to this Case:** December 4, 2007 (NOE) **Background Facts:** This was a routine record review of self-reported discharge monitoring reports ("DMRs"). Two violations were documented. **WATER** 1) Failed to comply with the permitted effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 13203001, Effluent Limitations and Monitoring Requirement No.1]. 2) Failed to submit the DMR parameter data. Specifically the flow daily maximum data was not included on the DMRs for the monitoring periods ending December 31, 2005, January 31, 2006 and July 31, 2006 [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13203001, Monitoring and Reporting Requirements].	**Total Assessed:** $4,620 **Total Deferred:** $924 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $3,696 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that Port of Houston submitted the revised DMRs for the monitoring periods ending December 31, 2005, January 31, 2006 and July 31, 2006 on January 4, 2007 and temporarily shut down the Facility on January 19, 2007. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 3) The Order will also 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. 13203001.

Attachment A
Docket Number: 2006-2197-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Port of Houston Authority**
Payable Penalty Amount:	**Three Thousand Six Hundred Ninety-Six Dollars ($3,696)**
SEP Amount:	**Three Thousand Six Hundred Ninety-Six Dollars ($3,696)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash**
Location of SEP:	**Harris County**

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

1. Project Description

A. Project

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The 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.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt
Gulf Coast Waste Disposal Authority
910 Bay Area Boulevard
Houston, Texas 77058

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement 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.

6. Clean Texas Program

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

7. 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

TCEQ

DATES					
Assigned	11-Dec-2006				
PCW	15-Dec-2006	Screening	12-Dec-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Port of Houston Authority		
Reg. Ent. Ref. No.	RN102179033		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31968	No. of Violations	2
Docket No.	2006-2197-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Samuel Short
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$3,300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 40% Enhancement — *Subtotals 2, 3, & 7* **$1,320**

Notes: A 40% enhancement is recommended for having eight NOVs for self-reported effluent violations within the last five years.

Culpability — No — 0% Enhancement — *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* **$0**

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

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

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$182
Approx. Cost of Compliance	$2,750

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$4,620**

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* **$0**

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

Notes:

Final Penalty Amount **$4,620**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$4,620**

DEFERRAL — 20% Reduction — *Adjustment* **-$924**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **$3,696**

Screening Date	12-Dec-2006	**Docket No.** 2006-2197-MWD-E	**PCW**
Respondent	Port of Houston Authority		*Policy Revision 2 (September 2002)*
Case ID No.	31968		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102179033		
Media [Statute]	Water Quality		
Enf. Coordinator	Samuel Short		

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*)	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 40% enhancement is recommended for having eight NOVs for self-reported effluent violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date	12-Dec-2006	**Docket No.** 2006-2197-MWD-E	**PCW**
Respondent	Port of Houston Authority		*Policy Revision 2 (September 2002)*
Case ID No.	31968		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102179033		
Media [Statute]	Water Quality		
Enf. Coordinator	Samuel Short		

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13203001, Effluent Limitations and Monitoring Requirement No.1

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on November 15, 2006. See 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 ("NH3-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, Total Suspended Solids ("TSS"), and carbonaceous biochemical oxygen demand ("CBOD") 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 as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 3

151 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

Estimated EB Amount $146

Statutory Limit Test

Violation Final Penalty Total $4,200

This violation Final Assessed Penalty (adjusted for limits) $4,200

Economic Benefit Worksheet

Respondent Port of Houston Authority
Case ID No. 31968
Reg. Ent. Reference No. RN102179033
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$2,000	28-Feb-2006	15-Aug-2007	1.5	$146	n/a	$146
Notes for DELAYED costs	The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncompliance started and the final date is the expected compliance date.						
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 $2,000

TOTAL $146

Screening Date	12-Dec-2006	**Docket No.** 2006-2197-MWD-E	**PCW**
Respondent	Port of Houston Authority		*Policy Revision 2 (September 2002)*
Case ID No.	31968		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102179033		
Media [Statute]	Water Quality		
Enf. Coordinator	Samuel Short		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 13203001, Monitoring and Reporting Requirements

Violation Description Failed to submit the discharge monitoring reports ("DMR") parameter data. Specifically, the flow daily maximum data was not included on the DMRs for the monitoring periods ending December 31, 2005, January 31, 2006 and July 31, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: At least 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 3

346 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $300

Three single events are recommended

Economic Benefit (EB) for this violation

Estimated EB Amount $36

Statutory Limit Test

Violation Final Penalty Total $420

This violation Final Assessed Penalty (adjusted for limits) $420

Economic Benefit Worksheet

Respondent Port of Houston Authority
Case ID No. 31968
Reg. Ent. Reference No. RN102179033
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$750	20-Jan-2006	4-Jan-2007	1.0	$36	n/a	$36
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	The estimated cost associated with reporting the DMR parameter data, flow daily maximum. Date required is the date the first complete DMR was due. 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: $750

TOTAL: $36

Effluent Violation Table

Port of Houston Authority
TPDES Permit No. 13203001 (Outfall 001A)
Docket No. 2006-2197-MWD-E

Permitted Effluent Limits	Monitoring Period End Date				
	02/28/2006	03/31/2006	04/30/2006	05/31/2006	08/31/2006
TSS Daily Avg. 15 mg/L	103.67	64.60	34.88	22.8	29.167
TSS Single Grab Max. 60 mg/L	122	142	90	C	C
TSS Daily Avg. 0.63 lbs/dy	C	C	1.22	C	C
NH3-N Daily Avg. Nov.-Mar. 5 mg/L	C	6.72	N/A	N/A	N/A
NH3-N Single Grab Max. Nov.-Mar. 15 mg/L	C	20.70	N/A	N/A	N/A
NH3-N Daily Avg. Apr.-Oct. 3 mg/L	N/A	N/A	4.46	3.86	5.38

Avg. = average	C = compliant	mg/L = milligrams per liter
TSS = total suspended solids	NH3-N = Ammonia Nitrogen	Min. = minimum
Max= maximum	lbs/dy = pounds per day	N/A = Not applicable

Compliance History

Customer/Respondent/Owner-Operator:	CN600134324	Port of Houston Authority	Classification: AVERAGE	Rating: 2.45
Regulated Entity:	RN102179033	GENERAL CARGO PLANT	Classification: AVERAGE	Site Rating: 0.30

ID Number(s):	WASTEWATER	PERMIT	WQ0013203001
	WASTEWATER	PERMIT	TPDES0099473

Location: 16800 PENINSULA BOULEVARD, HOUSTON, TX, 77015 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 12, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 12, 2001 to December 12, 2006

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

Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/20/2006	(504752)
2	03/24/2003	(28144)
3	07/20/2006	(527059)
4	08/28/2006	(527060)
5	09/14/2006	(527061)
6	10/19/2006	(527062)
7	10/17/2006	(527063)
8	02/27/2006	(478659)
9	03/23/2006	(478660)
10	02/22/2005	(388184)
11	10/03/2005	(478662)
12	03/21/2005	(388185)
13	11/19/2004	(388186)
14	10/24/2005	(478663)
15	12/21/2004	(388187)
16	12/21/2005	(478664)
17	01/21/2005	(388188)
18	02/03/2003	(219142)
19	01/19/2006	(478666)
20	01/22/2002	(219141)
21	07/22/2003	(219138)
22	12/27/2001	(219137)
23	02/23/2004	(321030)
24	11/26/2002	(219134)
25	03/18/2004	(321033)
26	04/20/2004	(321034)
27	10/21/2002	(219130)
28	05/23/2003	(321036)
29	09/23/2002	(219127)
30	06/26/2003	(321038)
31	06/16/2004	(321039)
32	08/19/2002	(219124)
33	07/24/2003	(321041)
34	05/13/2004	(363311)
35	07/20/2004	(363312)
36	08/18/2003	(321043)
37	09/01/2004	(363313)

38 07/19/2002 (219121)
39 12/05/2006 (531147)
40 09/21/2004 (363314)
41 09/22/2003 (321045)
42 10/19/2004 (363315)
43 06/17/2002 (219118)
44 10/20/2003 (321048)
45 11/24/2003 (321049)
46 05/20/2002 (219115)
47 12/16/2003 (321050)
48 01/26/2004 (321051)
49 04/21/2003 (219112)
50 04/16/2002 (219111)
51 04/20/2005 (425760)
52 06/09/2005 (425761)
53 03/27/2003 (219107)
54 06/20/2005 (425762)
55 04/01/2002 (219106)
56 05/09/2005 (379258)
57 02/21/2003 (219104)
58 02/25/2002 (219103)
59 07/19/2005 (446269)
60 08/22/2005 (446270)
61 04/21/2006 (504750)
62 05/17/2006 (504751)

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

Date: 04/30/2006 (504751)
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: 05/31/2006 (504752)
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: 08/31/2006 (527061)
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: 09/30/2006 (527062)
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 (478660)
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: 08/31/2005 (478662)
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: 12/31/2004 (388188)
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: 03/31/2006 (504750)
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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
PORT OF HOUSTON AUTHORITY	§	
RN102179033	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2197-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 Port of Houston Authority ("Port of Houston") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Port of Houston appear before the Commission and together stipulate that:

1. Port of Houston owns and operates a domestic wastewater system at 16800 Peninsula Boulevard in Harris County, Texas (the "Facility").

2. Port of Houston has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and Port of Houston agree that the Commission has jurisdiction to enter this Agreed Order, and that Port of Houston is subject to the Commission's jurisdiction.

4. Port of Houston received notice of the violations alleged in Section II ("Allegations") on or about December 9, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Port of Houston of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Six Hundred Twenty Dollars ($4,620) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nine Hundred Twenty-Four Dollars ($924) is deferred contingent upon Port of

Houston'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 Port of Houston fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Port of Houston to pay all or part of the deferred penalty. Three Thousand Six Hundred Ninety-Six Dollars ($3,696) shall be conditionally offset by the Port of Houston's completion of a Supplemental Environmental Project.

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 Port of Houston 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 Port of Houston submitted the revised DMRs for the monitoring periods ending December 31, 2005, January 31, 2006 and July 31, 2006 on January 4, 2007 and temporarily shut down the Facility on January 19, 2007.

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 Port of Houston has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13203001, Effluent Limitations and Monitoring Requirement No.1, as documented during a record review conducted on November 15, 2006. See table.

Effluent Violation Table					
Permitted Effluent Limits	Monitoring Period End Date				
	02/28/2006	03/31/2006	04/30/2006	05/31/2006	08/31/2006
TSS Daily Avg. 15 mg/L	103.67	64.60	34.88	22.8	29.167
TSS Single Grab Max. 60 mg/L	122	142	90	C	C
TSS Daily Avg. 0.63 lbs/dy	C	C	1.22	C	C
NH3-N Daily Avg. Nov.-Mar. 5 mg/L	C	6.72	N/A	N/A	N/A
NH3-N Single Grab Max. Nov.-Mar. 15 mg/L	C	20.70	N/A	N/A	N/A
NH3-N Daily Avg. Apr.-Oct. 3 mg/L	N/A	N/A	4.46	3.86	5.38

Avg. = average	C = compliant	mg/L = milligrams per liter
TSS = total suspended solids	NH3-N = Ammonia Nitrogen	Min. = minimum
Max= maximum	lbs/dy = pounds per day	N/A = Not applicable

2. Failed to submit the discharge monitoring reports ("DMR") parameter data, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. 13203001, Monitoring and Reporting Requirements, as documented during a record review conducted on November 15, 2006. Specifically, the flow daily maximum data was not included on the DMRs for the monitoring periods ending December 31, 2005, January 31, 2006 and July 31, 2006.

III. DENIALS

Port of Houston generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Port of Houston pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Port of Houston'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: Port of Houston Authority, Docket No. 2006-2197-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. Port of Houston shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with Tex. Water Code § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Six Hundred Ninety-Six Dollars ($3,696) of the assessed administrative penalty shall be offset with the condition that the Port of Houston implement the SEP defined in Attachment A, incorporated herein by reference. Port of Houston'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. It is further ordered that Port of Houston shall undertake the following technical requirements:

Within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. 13203001 and Ordering Provisions 2.a. 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:

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

4. The provisions of this Agreed Order shall apply to and be binding upon Port of Houston. Port of Houston 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.

5. If Port of Houston 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, Port of Houston's failure to comply is not a violation of this Agreed Order. Port of Houston shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Port of Houston shall notify the Executive Director within seven days after Port of Houston becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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 Port of Houston shall be made in writing to the Executive Director. Extensions are not effective until Port of Houston receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Port of Houston 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.

8. 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.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Port of Houston, or three days after the date on which the Commission mails notice of the Order to Port of Houston, 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

_____ 6/27/07
For the Executive Director 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.

LEGAL APPROVAL

_____ 2/22/07
Signature Date

Wade Battles Managing Director
Name (Printed or typed) Title
Authorized Representative of
Port of Houston Authority

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.

Attachment A
Docket Number: 2006-2197-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Port of Houston Authority**
Payable Penalty Amount:	**Three Thousand Six Hundred Ninety-Six Dollars ($3,696)**
SEP Amount:	**Three Thousand Six Hundred Ninety-Six Dollars ($3,696)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Gulf Coast Waste Disposal Authority ("GCWDA")-River, Lakes, Bays 'N Bayous Trash Bash**
Location of SEP:	**Harris County**

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

1. Project Description

A. Project

The Respondent will contribute to Gulf Coast Waste Disposal Authority ("GCWDA") for its River, Lakes, Bays 'N Bayous Trash Bash in Harris County. The contribution will be used in accordance with the Supplemental Environmental Project Agreement between the GCWDA and the Texas Commission on Environmental Quality. Specifically, the contribution will be used to pay for materials, supplies, disposal costs, and transportation costs directly associated with the cleanup of trash and pollutants from the Galveston Bay and the San Jacinto watershed.

The 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.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Lori Gernhardt
Gulf Coast Waste Disposal Authority
910 Bay Area Boulevard
Houston, Texas 77058

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement 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.

6. Clean Texas Program

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

7. 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.