EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2011-MWD-E **TCEQ ID:** RN101517878 **CASE NO.:** 31774

RESPONDENT NAME: City of Hudson

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: City of Hudson wastewater treatment system, approximately 0.8 mile east of the intersection of State Highway 94 and Farm-to-Market Road 3258 and approximately 0.8 mile south of the intersection of State Highway 94 and Farm-to-Market Road 706, Angelina County

TYPE OF OPERATION: Wastewater treatment plant

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 June 18, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203;
Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
Respondent: The Honorable Robert Smith, Mayor, City of Hudson, 201 Mount Carmel Road, Lufkin, Texas 75904
Mr. James M. Freeman, City Administrator, City of Hudson, 201 Mount Carmel Road, Lufkin, Texas 75904
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 6, 2006 **Date of NOE Relating to this Case:** November 16, 2006 (NOE) **Background Facts:** This was a routine record review of self-reported data. One violation was documented. **WATER** Failed to comply with permit effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011826001, Effluent Limitations and Monitoring Requirements Nos. 2 and 6].	**Total Assessed:** $3,060 **Total Deferred:** $612 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $2,448 **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 the City has implemented the following corrective measures at the Plant: a. In May 2006, the Facility used a pump to clean sand and solids off the bottom of the oxidation ditch to increase the treatment area and improve the dissolved oxygen (DO) levels as well as increased monitoring of DO in the oxidation ditch daily and in the effluent; and b. In May 2006, the Facility installed a new flow control valve for chlorine and completed the electrical work for the valve in August 2006, to achieve compliance with all effluent limitations by August 31, 2006. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Attachment A
Docket Number: 2006-2011-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hudson
Penalty Amount:	Two Thousand Four Hundred Forty-Eight Dollars ($2,448)
SEP Offset Amount:	Two Thousand Four Hundred Forty-Eight Dollars ($2,448)
Type of SEP:	Custom
Location of SEP:	Angelina County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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

The Respondent shall hold a three-day event for the collection and recycling of tires, batteries, electronics and household appliances. In addition to accepting the items at a designated drop-off location, the Respondent shall pick up items from senior citizens who have no other way of disposing the wastes. The event will be advertised in two local papers (The Lufkin Daily News and the East Texas Peddler), and on utility bills for the month prior to the event. If possible the event will occur in conjunction with Texas Tire Reclamation Day.

The Respondent shall ensure that the event:

- occurs on at least one weekend day during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees and volunteers;
- includes recycling of electronics; and
- is advertised in:
  - a newspaper of large circulation in the geographic area, and
  - utility bill mail-outs.

The Respondent shall collect, transport, dispose of or recycle the collected materials. SEP monies will be used for heavy equipment such as roll-off bins, trailers, overtime labor of employees, public announcement of the event, and disposal and recycling costs.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The 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. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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

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.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes 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. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The event will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

The 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. The Respondent estimates that it will spend approximately $4,000 to complete the project.

2. Performance Schedule

The 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, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion with the time required above. There are no other interim performance milestones for this collection and recycling event.

B. Final Report

Within 60 days after completion of the project, the 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, appliances, and pounds of electronic waste;
5. Photographs of the project; and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The 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

The 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. The Respondent shall also allow a representative of the 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 the 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. The 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, the 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

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the 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 the Respondent under any other orders 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 November 17, 2006*

TCEQ

DATES					
Assigned	20-Nov-2006				
PCW	7-Dec-2006	Screening	21-Nov-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Hudson		
Reg. Ent. Ref. No.	RN101517878		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31774	No. of Violations	1
Docket No.	2006-2011-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **78%** Enhancement — *Subtotals 2, 3, & 7* **$1,560**

Notes: The penalty is enhanced because the Respondent self-reported 11 violations, received three notices of violations (NOVs) for violations that are same or similar to those cited in this action and four NOVs for violations that are not the same or similar to those cited in the action.

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

Notes: Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — **25%** Reduction — *Subtotal 5* **$500**

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

Notes: The Respondent became compliant with permitted effluent limitations on August 31, 2006, by removing solids and replacing or repairing malfunctioning equipment.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$51
Approx. Cost of Compliance	$3,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$3,060**

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 **$3,060**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$3,060**

DEFERRAL — **20%** Reduction — *Adjustment* **-$612**

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 **$2,448**

Screening Date 21-Nov-2006 **Docket No.** 2006-2011-MWD-E **PCW**

Respondent City of Hudson

Case ID No. 31774

Reg. Ent. Reference No. RN101517878

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

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*)	14	70%
	Other written NOVs	4	8%
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) 78%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced because the Respondent self-reported 11 effluent violoations, recieved three notices of violations (NOV's) for violations that are same or similar to those cited in this action and four NOV's for violations that are not the same or similar to those cited in the action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 78%

Screening Date 21-Nov-2006 **Docket No.** 2006-2011-MWD-E **PCW**

Respondent City of Hudson *Policy Revision 2 (September 2002)*

Case ID No. 31774 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN101517878

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011826001, Effluent Limitations and Monitoring Requirements Nos. 2 and 6.

Violation Description Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on November 06, 2006. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: 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 2 | 153 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two quarterly events are recommended

Economic Benefit (EB) for this violation

Estimated EB Amount $51

Statutory Limit Test

Violation Final Penalty Total $3,060

This violation Final Assessed Penalty (adjusted for limits) $3,060

Economic Benefit Worksheet

Respondent City of Hudson
Case ID No. 31774
Reg. Ent. Reference No. RN101517878
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)	$3,000	30-Apr-2006	31-Aug-2006	0.3	$51	n/a	$51

Notes for DELAYED costs: The approximate cost for a new chlorine control valve, labor, and additional monitoring. The Date Required is the date of first noncompliance, and the Final date is the 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: N/A

Approx. Cost of Compliance: $3,000

TOTAL: $51

Effluent Limit Violation Table

table rev.

Respondent	City of Hudson
ID Number(s)	TPDES Permit No. WQ0011826001
Docket Number	2006-2011-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

EFFLUENT PARAMETER		
Permit Limit		
	Dissolved Oxygen minimum concentration 5.0 milligrams per liter	Maximum Residual Chlorine 4.0 milligrams per liter
Month/Year		
4/30/2006	4.8	c
5/31/2006	c	5.0
6/30/2006	4.8	5.0
7/31/2006	c	5.0

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD5
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH3-N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator:	CN600793376	City of Hudson	Classification: AVERAGE	Rating: 2.10
Regulated Entity:	RN101517878	CITY OF HUDSON	Classification: AVERAGE	Site Rating: 1.19

ID Number(s):	WASTEWATER	PERMIT	WQ0011826001
	WASTEWATER	PERMIT	TPDES0068985
	WASTEWATER	PERMIT	TX0068985
	WASTEWATER LICENSING	LICENSE	WQ0011826001

Location: Aprox. 0.8 Miles East of intersection of State Highway 94 and Farm-to-Market Road 3258 and Aprox. 0.8 mile south of intersection of State Highway 94 and Farm-to-Market Road 706 in Angelina County, Texas

Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: November 21, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 20, 2001 to November 20, 2006

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

Name: Heather Brister Phone: 512-239-1203

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

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	02/21/2005	(385380)
2	03/17/2005	(385381)
3	12/20/2004	(385382)
4	01/10/2005	(385383)
5	04/19/2002	(247222)
6	02/21/2002	(195411)
7	01/15/2002	(247220)
8	08/23/2006	(509933)
9	02/13/2003	(195412)
10	03/11/2002	(195414)
11	03/12/2003	(195415)
12	06/30/2003	(121579)
13	02/21/2006	(474695)
14	04/22/2002	(195419)
15	04/14/2003	(195420)
16	03/20/2006	(474696)
17	05/23/2002	(195423)
18	10/20/2005	(474697)
19	05/21/2003	(195424)

20 09/11/2006 (524742)
21 11/18/2005 (474698)
22 06/10/2002 (195427)
23 07/21/2006 (524743)
24 06/11/2003 (195428)
25 08/10/2006 (524744)
26 12/22/2005 (474699)
27 09/19/2006 (524745)
28 01/19/2006 (474700)
29 10/09/2006 (524746)
30 07/11/2002 (195432)
31 04/19/2006 (502429)
32 02/11/2004 (311207)
33 05/19/2006 (502430)
34 08/14/2002 (195435)
35 03/22/2004 (311210)
36 09/11/2002 (195438)
37 04/12/2004 (311211)
38 11/17/2006 (518601)
39 05/20/2004 (311213)
40 10/15/2002 (195441)
41 04/20/2005 (423428)
42 06/15/2004 (311215)
43 05/23/2005 (423429)
44 06/22/2005 (423430)
45 11/26/2001 (195444)
46 08/18/2003 (311218)
47 11/15/2002 (195445)
48 06/22/2005 (396653)
49 09/15/2003 (311220)
50 01/07/2002 (195448)
51 10/13/2003 (311222)
52 12/18/2002 (195449)
53 11/14/2003 (311223)
54 12/17/2003 (311224)
55 01/14/2004 (311225)
56 01/28/2002 (195452)
57 01/15/2003 (195453)
58 07/20/2005 (444233)
59 08/24/2005 (444234)
60 09/22/2005 (444235)
61 07/21/2006 (481728)
62 07/12/2004 (358505)
63 08/20/2004 (358506)
64 09/20/2004 (358507)
65 10/14/2004 (358508)
66 06/13/2006 (479731)
67 11/17/2004 (358509)

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

Date: **04/19/2002** (247222)
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: 02/28/2005 (385381)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **01/15/2002** (247220)
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: **07/31/2005** (444234)
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: **12/10/2002** (16136)
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description: Failure to collect representative composite effluent samples.
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description: Failure to maintain an operable oxidation ditch effluent weir gear box.
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description: Failure to maintain structural integrity of the effluent weirs in the final clairifiers. On the date of the investigation, both final clarifier effluent weirs were out of level and were severely corroded.
Self Report? NO Classification: Moderate
Rqmt Prov: OP IA
Description: Failure to properly equip or maintain the treatment plant with a means of removal of floating solids to ensure that grease balls, plastics and other wastes are not passed through the plant to the receiving stream.
Self Report? NO Classification: Moderate
Rqmt Prov: OP IA
Description: Failure to employ certified operators.
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description: On 10/29/2002, the plant operator reported that the facility exceeded the two hour peak flow limitation of 683 gallons per minute, as a result of inflow/infiltration.
Self Report? NO Classification: Moderate
Rqmt Prov: OP IA
Description Failure by the City of Hudson to prevent unauthorized discharge of wastewater from the collection system. On 12/27/00 and 6/8/01 the City of Lufkin reported five unauthorized discharge events resulting from Inflow/Infiltration (I/I). Failure to prevent unauthorized discharge of wastewater from the collection system

Date: **02/28/2003** (195415)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **06/13/2006** (479731)
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description: Failure to maintain an operable oxidation ditch effluent weir gear box.
Self Report? NO Classification: Minor
Rqmt Prov: OP IA
Description Failure to maintain structural integrity of the effluent weirs in the final clairifiers. On the date of the investigation, both final clarifier effluent weirs were out of level and were severely corroded.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Rqmt Prov: PERMIT IA

Description: Failure by the permittee to prevent unauthorized discharges into or adjacent to waters of the state.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to submit an annual sludge report with all of the required information attached to the TCEQ Region 10 office and TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to equip collection system lift stations with audible high level alarms.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to prevent the discharge of floating plastic and solids into the receiving stream.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to discharge effluent that is compliant with permitted limitations.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to have the secondary flow measuring device calibrated at least annually and properly maintain flow measurement equipment.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description: Failure by the City of Hudson to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT IA

Description Failure by the City of Hudson to properly manage the solids inventory within the plant.

Date: **05/31/2006** (524742)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

Description Failure to meet the limit for one or more permit parameter

Date: **06/30/2006** (524743)

Self Report? YES Classification: Moderate

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

TWC Chapter 26 26.121(a)[G]

Description Failure to meet the limit for one or more permit parameter

Date: **07/31/2006** (524744)
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: **04/30/2006** (502430)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **06/23/2005** (396653)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Rqmt Prov: PERMIT IA
Description Failure by the permittee to prevent unauthorized discharges into or adjacent to waters of the state.

Date: **09/30/2002** (195441)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **06/20/2005** (379650)
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT IA
Description Failure by the permittee to report unauthorized discharges to the Region 10 office within 24 hours of becoming aware of the discharge.

Date: **12/31/2002** (195453)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **02/29/2004** (311210)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **06/30/2004** (358505)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description Failure to meet the limit for one or more permit parameter

Date: **06/21/2006** (509933)

Self Report? NO Classification: Minor

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

Rqmt Prov: PERMIT IA

Description Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.

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**
CITY OF HUDSON	§	
RN101517878	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2011-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The City owns and operates a wastewater treatment sytem located approximately 0.8 mile east of the intersection of State Highway 94 and Farm-to-Market Road 3258 and approximately 0.8 mile south of the intersection of State Highway 94 and Farm-to-Market Road 706 in Angelina County, Texas (the "Facility").

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

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2006.

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

6. An administrative penalty in the amount of Three Thousand Sixty Dollars ($3,060) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Four Hundred Forty-Eight Dollars ($2,448) of the administrative penalty shall be

conditionally offset by the City's completion of a Supplemental Environmental Project and Six Hundred Twelve Dollars ($612) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:

   a. In May 2006, the Facility used a pump to clean sand and solids off the bottom of the oxidation ditch to increase the treatment area and improve the dissolved oxygen (DO) levels as well as increased monitoring of DO in the oxidation ditch daily and in the effluent; and

   b. In May 2006, the Facility installed a new flow control valve for chlorine and completed the electrical work for the valve in August 2006, to achieve compliance with all effluent limitations by August 31, 2006.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that 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

As owner and operator of the Facility, the City is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011826001, Effluent Limitations and Monitoring Requirements Nos. 2 and 6, as documented during a record review conducted on November 6, 2006, and as shown in the following table:

EFFLUENT PARAMETER		
Permit Limit		
	Dissolved Oxygen minimum concentration 5.0 milligrams per liter	Maximum Residual Chlorine 4.0 milligrams per liter
Month/Year		
4/30/2006	4.8	c
5/31/2006	c	5.0
6/30/2006	4.8	5.0
7/31/2006	c	5.0

**c = compliant

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Hudson, Docket No. 2006-2011-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. The City 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, Two Thousand Four Hundred Forty-Eight Dollars ($2,448) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP 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 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 scheduals, and that failure is caused soley by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 8/9/2007
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.

_____ 4-2-2007
Signature Date

James M Freeman City Administrator
Name (Printed or typed) Title
Authorized Representative of
City of Hudson

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: 2006-2011-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hudson
Penalty Amount:	Two Thousand Four Hundred Forty-Eight Dollars ($2,448)
SEP Offset Amount:	Two Thousand Four Hundred Forty-Eight Dollars ($2,448)
Type of SEP:	Custom
Location of SEP:	Angelina County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the 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

The Respondent shall hold a three-day event for the collection and recycling of tires, batteries, electronics and household appliances. In addition to accepting the items at a designated drop-off location, the Respondent shall pick up items from senior citizens who have no other way of disposing the wastes. The event will be advertised in two local papers (The Lufkin Daily News and the East Texas Peddler), and on utility bills for the month prior to the event. If possible the event will occur in conjunction with Texas Tire Reclamation Day.

The Respondent shall ensure that the event:

- occurs on at least one weekend day during daylight hours;
- offers to the public a convenient drop-off location;
- is organized and conducted by City employees and volunteers;
- includes recycling of electronics; and
- is advertised in:
  - a newspaper of large circulation in the geographic area, and
  - utility bill mail-outs.

The Respondent shall collect, transport, dispose of or recycle the collected materials. SEP monies will be used for heavy equipment such as roll-off bins, trailers, overtime labor of employees, public announcement of the event, and disposal and recycling costs.

The Respondent shall perform this project in accordance with all federal, state and local laws and regulations. The 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. The Respondent recognizes that additional funds over and above the SEP Offset Amount may be necessary to conduct the event.

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

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.

This SEP will also provide a discernible environmental benefit by providing for the proper disposal of wastes 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. Collection of waste tires will help prevent illegal tire dumps and help rid the community of the attractive nuisance that can harbor vermin, including mosquitoes that can carry West Nile virus. The event will also help prevent potential release of harmful chemicals into the atmosphere should the illegally dumped tires catch fire.

C. Minimum Expenditure

The 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. The Respondent estimates that it will spend approximately $4,000 to complete the project.

2. Performance Schedule

The 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, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion with the time required above. There are no other interim performance milestones for this collection and recycling event.

B. Final Report

Within 60 days after completion of the project, the 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, appliances, and pounds of electronic waste;
5. Photographs of the project; and
6. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The 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

The 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. The Respondent shall also allow a representative of the 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 the 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. The 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, the 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

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the 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 the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.