

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0327-MWD-E **TCEQ ID:** RN102179447 **CASE NO.:** 35436

RESPONDENT NAME: City of Humble

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Southwest Plant, approximately 3,000 feet south of the intersection of Will Clayton Boulevard and U.S. Highway 59 on the western banks of Garners Bayou, Humble, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2576; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Darrell Boeske, City Manager, City of Humble, 114 West Higgins Street, Humble, Texas 77338 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 5, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 23, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>1) Failure to comply with permitted effluent limitations. Specifically, the single grab sample permit discharge limitation for fecal coliform bacteria is 800 colonies per 100 milliliters; however, grab samples contained 4,000 colonies on May 22, 2007, 2,000 colonies on May 29, 2007, 2,100 colonies on May 30, 2007, and 3,750 colonies on June 4, 2007 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010763002, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to prevent unauthorized discharges of wastewater. Specifically, 300 gallons of wastewater discharged from a manhole at the wastewater treatment plant on September 15, 2007 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0010763002, Permit Conditions No. 2.g.].</p>	<p>Total Assessed: \$6,500 Total Deferred: \$1,300 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,200</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Wastewater Treatment Plant</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility, as documented in the Respondent's letter dated February 12, 2008:</p> <p>a. Replaced faulty ultraviolet lamps and ballasts at the old plant that caused fecal coliform exceedances and placed the new plant in operation in July 2007 to prevent further exceedances; and</p> <p>b. Replaced a faulty control probe on September 15, 2007 that caused a wastewater discharge from a manhole at the wastewater treatment plant on that date;</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with the permitted effluent limitations of TPDES Permit No. WQ0010763002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0010763002

Attachment A
Docket Number: 2008-0327-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Humble
Payable Penalty Amount:	Five Thousand Two Hundred Dollars (\$5,200)
SEP Amount:	Five Thousand Two Hundred Dollars (\$5,200)
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

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 January 29, 2008

DATES	Assigned	28-Jan-2008			
	PCW	25-Feb-2008	Screening	22-Feb-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Humble
Reg. Ent. Ref. No.	RN102179447
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	35436	No. of Violations	2	
Docket No.	2008-0327-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Enf. Coordinator	Thomas Jecha	
Multi-Media		EC's Team	Enforcement Team 3	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,500
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Notes: Enhancement for four NOV's with self-reported effluent data and two NOV's with same or similar violations at this facility within the past five years.

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

Good Faith Effort to Comply	0% Reduction	<i>Subtotal 5</i>	\$0
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	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.

Total EB Amounts	\$44	0% Enhancement*	<i>Subtotal 6</i>	\$0
Approx. Cost of Compliance	\$700	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$6,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	\$6,500
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STATUTORY LIMIT ADJUSTMENT	<i>Final/Assessed Penalty</i>	\$6,500
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DEFERRAL	20% Reduction	<i>Adjustment</i>	-\$1,300
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,200
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Screening Date 22-Feb-2008
Respondent City of Humble
Case ID No. 35436
Reg. Ent. Reference No. RN102179447
Media [Statute] Water Quality
Enf. Coordinator Thomas Jecha

Docket No. 2008-0327-MWD-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision January 29, 2008

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	6	30%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> **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

Enhancement for four NOVs with self-reported effluent data and two NOVs with same or similar violations at this facility within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date	22-Feb-2008	Docket No.	2008-0327-MWD-E	PCW
Respondent	City of Humble			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	35436			<i>PCW Revision January 29, 2008</i>
Reg. Ent. Reference No.	RN102179447			
Media [Statute]	Water Quality			
Enf. Coordinator	Thomas Jecha			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Harm			
Falsification	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Humble
Case ID No. 35436
Reg. Ent. Reference No. RN102179447
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				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)	\$500	22-May-2007	17-Feb-2009	1.7	\$44	n/a	\$44

Notes for DELAYED costs

Estimated cost to replace faulty ultraviolet lamps and ballasts and certify compliance with permitted effluent limitations. The date required is the date of the first exceedance and the final date is the estimated 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

\$500

TOTAL

\$44

Screening Date 22-Feb-2008 **Docket No.** 2008-0327-MWD-E **PCW**
Respondent City of Humble *Policy Revision 2 (September 2002)*
Case ID No. 35436 *PCW Revision January 29, 2008*
Reg. Ent. Reference No. RN102179447
Media [Statute] Water Quality
Enf. Coordinator Thomas Jecha

Violation Number

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and (4), and TPDES Permit No. WQ0010763002, Permit Conditions No. 2.g.

Violation Description Failed to prevent the unauthorized discharge of wastewater. Specifically, 300 gallons of wastewater discharged from a manhole at the wastewater treatment plant on September 15, 2007.

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Humble
Case ID No. 35436
Reg. Ent. Reference No. RN102179447
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$200	15-Sep-2007	16-Sep-2007	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace a faulty control probe. * Date required is the discharge date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$200

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600630008	City of Humble	Classification: AVERAGE	Rating: 2.47
Regulated Entity:	RN102179447	SOUTHWEST PLANT	Classification: AVERAGE	Site Rating: 0.32
ID Number(s):	WASTEWATER	PERMIT		WQ0010763002
	WASTEWATER	PERMIT		TPDES0034401
	WASTEWATER	PERMIT		TX0034401
	WASTEWATER LICENSING	LICENSE		WQ0010763002
Location:	Located approximately 3000 feet South of the intersection of Will Clayton Boulevard and U.S. Highway 59, on the Western banks of Garners Bayou and within the City limits of Humble in Harris County, Texas			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prep:	February 04, 2008			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	February 04, 2003 to February 04, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Thomas Jecha</u>	Phone:	<u>512 239 2576</u>	

Site Compliance History Components

- | | |
|---|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance | 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 | 02/18/2003 | (179768) |
| 2 | 03/21/2003 | (179771) |
| 3 | 04/27/2003 | (179776) |
| 4 | 05/21/2003 | (179780) |
| 5 | 07/03/2003 | (179788) |
| 6 | 07/16/2003 | (179784) |
| 7 | 09/16/2003 | (304535) |
| 8 | 09/19/2003 | (304537) |
| 9 | 10/21/2003 | (304539) |
| 10 | 11/13/2003 | (304540) |
| 11 | 12/16/2003 | (304541) |
| 12 | 12/16/2003 | (304542) |
| 13 | 01/20/2004 | (258529) |
| 14 | 02/20/2004 | (304525) |
| 15 | 03/19/2004 | (304527) |
| 16 | 04/22/2004 | (304528) |
| 17 | 05/24/2004 | (304530) |
| 18 | 06/21/2004 | (355802) |
| 19 | 07/10/2004 | (304533) |

20 09/15/2004 (579935)
 21 10/14/2004 (579938)
 22 12/15/2004 (579943)
 23 03/07/2005 (383916)
 24 03/07/2005 (579946)
 25 06/16/2005 (579921)
 26 06/16/2005 (579925)
 27 06/16/2005 (579928)
 28 07/14/2005 (579930)
 29 08/17/2005 (579933)
 30 09/19/2005 (579936)
 31 10/17/2005 (579939)
 32 11/21/2005 (579941)
 33 12/19/2005 (579944)
 34 01/19/2006 (579947)
 35 02/15/2006 (452299)
 36 02/21/2006 (579918)
 37 02/21/2006 (579919)
 38 03/21/2006 (579922)
 39 04/20/2006 (579924)
 40 05/26/2006 (579926)
 41 07/07/2006 (485292)
 42 08/22/2006 (579931)
 43 08/31/2006 (579934)
 44 09/18/2006 (579937)
 45 10/19/2006 (579940)
 46 11/21/2006 (579942)
 47 12/14/2006 (579945)
 48 12/22/2006 (579948)
 49 02/21/2007 (579920)
 50 03/28/2007 (579923)
 51 04/16/2007 (607984)
 52 05/21/2007 (579927)
 53 05/21/2007 (579932)
 54 06/15/2007 (579929)
 55 08/22/2007 (607985)
 56 10/19/2007 (607986)
 57 01/23/2008 (610525)

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

Date 01/16/2004 (258529)
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permitted daily maximum effluent limits for fecal coliform. During the last twelve months, seven violations were reported.
 Self Report? NO Classification Moderate
 Citation: TWC Chapter 26 26.121(a)(1)
 Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.
 Date 03/31/2004 (304528)
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2004 (304533)
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date 12/31/2005 (579947)
 Self Report? YES Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date 02/15/2006 (452299)

Self Report? NO

Classification Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Rqmt Prov: PERMIT No. 10763-002 Page 7No. 2g

Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Date 10/31/2006 (579942)

Self Report? YES

Classification Moderate

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

TWC Chapter 26 26.121(a)

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

F. Environmental audits

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HUMBLE
RN102179447**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0327-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 Humble ("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 plant located approximately 3,000 feet south of the intersection of Will Clayton Boulevard and U.S. Highway 59 on the western banks of Garners Bayou in Humble, Harris 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 January 28, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Five Hundred Dollars (\$6,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

One Thousand Three Hundred Dollars (\$1,300) 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. Five Thousand Two Hundred Dollars (\$5,200) shall be conditionally offset by the City'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 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, as documented in the City's letter dated February 12, 2008:
 - a. Replaced faulty ultraviolet lamps and ballasts at the old plant that caused fecal coliform exceedances and placed the new plant in operation in July 2007 to prevent further exceedances; and
 - b. Replaced a faulty control probe on September 15, 2007 that caused a wastewater discharge from a manhole at the wastewater treatment plant on that date.
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:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010763002, Effluent Limitations and Monitoring Requirements Nos. 1, as documented during an investigation conducted on December 5, 2007. Specifically, the single grab sample permit discharge limitation for fecal coliform bacteria is 800 colonies per 100 milliliters; however, grab samples contained 4,000 colonies on May 22, 2007, 2,000 colonies on May 29, 2007, 2,100 colonies on May 30, 2007, and 3,750 colonies on June 4, 2007.

2. Failed to prevent unauthorized discharges of wastewater, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0010763002, Permit Conditions No. 2.g., as documented during an investigation conducted on December 5, 2007. Specifically, 300 gallons of wastewater discharged from a manhole at the wastewater treatment plant on September 5, 2007.

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 Humble, Docket No. 2008-0327-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, Five Thousand Two Hundred Dollars (\$5,200) 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. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with the permitted effluent limitations of TPDES Permit No. WQ0010763002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 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.
7. 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.
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 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

John Srdic
For the Executive Director

11/3/2008
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 indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Darrell Boeske
Signature

9/15/2008
Date

DARRELL BOESKE
Name (Printed or typed)
Authorized Representative of
City of Humble

CITY MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2008-0327-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Humble
Payable Penalty Amount:	Five Thousand Two Hundred Dollars (\$5,200)
SEP Amount:	Five Thousand Two Hundred Dollars (\$5,200)
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

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.

