EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1232-MWD-E **TCEQ ID:** RN102336526 **CASE NO.:** 34350

RESPONDENT NAME: Galileo Mount Houston TX LP dba Mount Houston Utilities

ORDER TYPE:		
__1660 AGREED ORDER	X 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: Mount Houston Utilities, located approximately 680 feet north of the intersection of United States Highway 59 and Mount Houston Road, Harris County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ Yes _X_ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2007-0648-MWD-E.

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 December 17, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Michael Axelrad, Senior Vice President, Galileo Mount Houston TX LP, 3901 Bellaire Boulevard, Houston, Texas 77025

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 _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 24, 2007 **Date of NOV/NOE Relating to this Case:** July 20, 2007 (NOE) **Background Facts:** This was a routine investigation. Four violations were documented. **WATER** 1) Failed to prevent the discharge and accumulation of sludge in the receiving stream [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14144001, Permit Conditions No. 2.d.]. 2) Failed to report any noncompliance which may endanger human health or safety or the environment [30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. 14144001, Monitoring and Reporting Requirements No. 7.a.]. 3) Failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained [30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.4(g)(4)(A) and TPDES Permit No. 14144001, Operational Requirements No. 1.]. 4) Failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained [30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. 14144001, Operational Requirements No. 1.].	**Total Assessed:** $35,490 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $35,490 **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 **Findings Orders Justification:** Human health or the environment was exposed to pollutants which exceeded levels that are protective.	**Corrective Actions Taken:** 1) The Executive Director recognizes that the Respondent has taken the following corrective measures at the Facility: a. On July 6, 2007, replaced the blowers in the aeration basin; and b. On July 11, 2007, removed and properly disposed of the accumulated sludge from the receiving stream. **Ordering Provisions:** 2) The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, update operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished; b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.h. of this section; c. Within 90 days after the effective date of this Agreed Order, conduct an engineering evaluation of the Facility to assess the causes of excessive solids and necessary corrective actions to restore the Facility to a fully functional and operational system and to maintain a proper level of solids in the system. The evaluation shall be prepared by a licensed Texas professional engineer; d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c., as described in Ordering Provision No. 2.h. of this section; e. Within 180 days after the effective date of this Agreed Order, complete a plan and schedule for the completion of necessary corrective actions to fully rehabilitate the Facility based on the engineering

		evaluation. This schedule should allow for completion of all repairs within 365 days after the effective date of this Agreed Order. Galileo shall provide a copy of the plan and schedule to the addresses listed in Ordering Provision No. 2.h. of this section; f. Within 365 days after the effective date of this Agreed Order, complete all necessary corrective actions to fully rehabilitate the Facility based on the engineering plan and schedule referenced in Ordering Provision No. 2.e. of this section; g. Within 380 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.f., as described in Ordering Provision No. 2.h. of this section; and h. All certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Ordering Provisions of this section.

Additional ID No(s).: WQ0014144001

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 26, 2007*

TCEQ

DATES					
Assigned	23-Jul-2007				
PCW	31-Jul-2007	Screening	31-Jul-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Galileo Mount Houston TX LP dba Mount Houston Utilities		
Reg. Ent. Ref. No.	RN102336526		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34350	No. of Violations	4
Docket No.	2007-1232-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
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* **$19,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 82% Enhancement — *Subtotals 2, 3, & 7* **$15,990**

Notes: The penalty is enhanced due to 12 NOVs with violations same or similar to those cited in this action, one NOV with unrelated violations and one agreed final enforcement order containing a denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$1,857
Approx. Cost of Compliance	$24,250

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$35,490**

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 **$35,490**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$35,490**

DEFERRAL — 0% Reduction — *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$35,490**

Screening Date 31-Jul-2007 **Docket No.** 2007-1232-MWD-E **PCW**

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilitie

Policy Revision 2 (September 2002)

Case ID No. 34350

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

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*)	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were 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) 82%

>> 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 due to 12 NOVs with violations same or similar to those cited in this action, one NOV with unrelated violations and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 82%

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 31-Jul-2007 **Docket No.** 2007-1232-MWD-E

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities

Case ID No. 34350

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 14144001, Permit Conditions No. 2.d.

Violation Description Failed to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, the investigator documented the presence of sludge from the point of discharge (the outfall) to approximately 120 feet downstream, ranging in depth from 6 inches to one foot. The stream had a strong septic odor and bloodworms were present. Samples taken at the outfall contained 36,000 colonies per 100 milliliters (col/100 mL) of fecal coliform and 120 feet downstream of the outfall contained 32,000 col/100 mL of fecal coliform.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to pollutants which exceed levels that are protective.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events 2

48 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

Two monthly events are recommended from the investigation date (May 24, 2007) to the date of compliance (July 11, 2007).

Economic Benefit (EB) for this violation

Estimated EB Amount $20

Statutory Limit Test

Violation Final Penalty Total $18,200

This violation Final Assessed Penalty (adjusted for limits) $18,200

Economic Benefit Worksheet

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities
Case ID No. 34350
Reg. Ent. Reference No. RN102336526
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal	$3,000	24-May-2007	11-Jul-2007	0.1	$20	n/a	$20
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to remediate the impacted stream. Date required is the investigation date. 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:

Approx. Cost of Compliance $3,000

TOTAL $20

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 31-Jul-2007 **Docket No.** 2007-1232-MWD-E

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities

Case ID No. 34350

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. 14144001, Monitoring and Reporting Requirements No. 7.a.

Violation Description Failed to report any noncompliance which may endanger human health or safety or the environment. Specifically, the Respondent did not report the overflow of sludge into the receiving stream to the TCEQ.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the permit requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

68 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $10

Statutory Limit Test

Violation Final Penalty Total $1,820

This violation Final Assessed Penalty (adjusted for limits) $1,820

Economic Benefit Worksheet

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities
Case ID No. 34350
Reg. Ent. Reference No. RN102336526
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
	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	$250	24-May-2007	29-Feb-2008	0.8	$10	n/a	$10
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to update operational guidance and to conduct employee training on reporting procedures. Date required is the investigation date. Final date is the expected date of compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance $250

TOTAL $10

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 31-Jul-2007 **Docket No.** 2007-1232-MWD-E

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities

Case ID No. 34350

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and (5) and 317.4(g)(4)(A) and TPDES Permit No. 14144001, Operational Requirements No. 1

Violation Description Failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained. Specifically, the Respondent failed to maintain a back-up blower to provide a minimum dissolved oxygen ("DO") concentration of 2.0 milligrams per liter ("mg/L") throughout the aeration basin. During the investigation, only one of the three available blowers was operational and the DO concentration in the aeration basin ranged between 0.18 mg/L and 0.3 mg/L.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to provide sufficient aeration could decrease the quality of effluent, exposing human health or the environment to significant amounts of pollutants which would not exceed levels that are protective.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

43 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the investigation date (May 24, 2007) to the date of compliance (July 6, 2007).

Economic Benefit (EB) for this violation

Estimated EB Amount $49

Statutory Limit Test

Violation Final Penalty Total $1,820

This violation Final Assessed Penalty (adjusted for limits) $1,820

Economic Benefit Worksheet

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities
Case ID No. 34350
Reg. Ent. Reference No. RN102336526
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$6,000	24-May-2007	6-Jul-2007	0.1	$2	$47	$49
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to repair or replace the blowers. Date required is the investigation date. 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							

Approx. Cost of Compliance	$6,000	TOTAL	$49

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Screening Date 31-Jul-2007 **Docket No.** 2007-1232-MWD-E

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities

Case ID No. 34350

Reg. Ent. Reference No. RN102336526

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. 14144001, Operational Requirements No. 1

Violation Description Failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained. Specifically, the investigator noted an excessive build-up of solids at the Facility. The clarifier contained approximately four feet of fluffy sludge and one foot of compact sludge and the chlorine contact chamber contained one foot of dark brown to black sludge.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Failure to maintain proper solid concentrations could expose human health or the environment to significant amounts of pollutants which would exceed levels that are protective.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 3

68 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

Three monthly events are recommended from the investigation date (May 24, 2007) to the screening date (July 31, 2007).

Economic Benefit (EB) for this violation

Estimated EB Amount $1,778

Statutory Limit Test

Violation Final Penalty Total $13,650

This violation Final Assessed Penalty (adjusted for limits) $13,650

Economic Benefit Worksheet

Respondent Galileo Mount Houston TX LP dba Mount Houston Utilities
Case ID No. 34350
Reg. Ent. Reference No. RN102336526
Media Water Quality
Violation No. 4

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	$15,000	24-May-2007	31-Jan-2009	1.7	$85	$1,693	$1,778
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to conduct an engineering study of the Facility. Date required is the investigation date. Final date is the expected date of compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance $15,000

TOTAL $1,778

Compliance History

Customer/Respondent/Owner-Operator:	CN603205279	Galileo Mount Houston TX LP	Classification: AVERAGE	Rating: 2.03
Regulated Entity:	RN102336526	MOUNT HOUSTON UTILITIES	Classification: AVERAGE	Site Rating: 2.03

ID Number(s):

WASTEWATER PERMIT	WQ0014144001
WASTEWATER PERMIT	TPDES0120189
WASTEWATER PERMIT	TX0120189

Location: LOCATED APPRX 680 FT N OF THE INTX OF US HWY 59 & MT HOUSTON RD, HARRIS CO, TX

Rating Date: September 01 06
Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 27, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 27, 2002 to July 27, 2007

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

Name: Lynley Doyen Phone: 512-239-1364

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	No
2. Has there been a (known) change in ownership of the site during the compliance period?	Yes
3. If Yes, who is the current owner?	Galileo Mount Houston TX LP
4. if Yes, who was/were the prior owner(s)?	CA New Plan Texas Assets, LP Center America Property Trust, LP
5. When did the change(s) in ownership occur?	08/10/2005 11/06/2003

Components (Multimedia) for the Site :

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

Effective Date: 05/23/2005 ADMINORDER 2004-0784-MWD-E

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
TWC Chapter 26 26.121(a)(1)
Rqmt Prov: Permit Condition No. 2.d. PERMIT
Description: Failure to prevent the discharge and accumulation of sludge in the receiving stream. Specifically, sludge was noted in the receiving stream from the outfall to approximately 175 feet downstream of the outfall.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
TWC Chapter 26 26.121(a)(1)
Rqmt Prov: Effluent Limitations, No. 1 PERMIT
Description: Failure to maintain compliance with carbonaceous biochemical oxygen demand ("CBOD") single grab limit of 35.0 milligrams per liter ("mg/L") with a value of greater than 39.0 mg/L and total suspended solids ("TSS") single grab limit of 60.0 mg/L with a value of 334.0 mg/L.

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 09/11/2002 (235760)
2 09/25/2002 (235762)
3 10/24/2002 (235764)
4 11/19/2002 (235766)
5 12/09/2002 (235768)
6 02/26/2003 (235753)
7 03/24/2003 (328131)
8 04/24/2003 (235756)
9 05/30/2003 (367454)
10 06/26/2003 (328123)
11 07/21/2003 (328125)
12 08/20/2003 (328126)
13 09/18/2003 (328127)
14 10/20/2003 (328128)

15 11/17/2003 (328129)
16 12/16/2003 (252681)
17 01/20/2004 (328132)
18 02/17/2004 (328120)
19 03/12/2004 (264639)
20 03/17/2004 (328121)
21 04/12/2004 (267482)
22 04/16/2004 (328122)
23 05/24/2004 (367455)
24 06/21/2004 (328124)
25 06/21/2004 (328130)
26 07/21/2004 (367456)
27 08/24/2004 (367457)
28 09/28/2004 (390310)
29 10/29/2004 (367458)
30 11/29/2004 (390311)
31 12/20/2004 (390312)
32 01/21/2005 (390313)
33 02/16/2005 (390309)
34 02/22/2005 (371520)
35 04/07/2005 (447798)
36 04/18/2005 (447799)
37 05/19/2005 (447800)
38 06/20/2005 (447801)
39 07/09/2005 (447802)
40 08/19/2005 (447803)
41 09/12/2005 (447804)
42 10/28/2005 (493008)
43 11/18/2005 (493009)
44 12/19/2005 (493010)
45 01/17/2006 (493011)
46 02/21/2006 (493007)
47 04/04/2006 (506559)
48 04/24/2006 (506560)
49 05/23/2006 (506561)
50 06/07/2006 (464361)
51 06/21/2006 (506562)
52 08/03/2006 (528732)
53 08/21/2006 (528733)
54 02/01/2007 (538532)
55 04/11/2007 (554292)
56 07/20/2007 (562608)

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

Date: 11/30/2002 (235768)

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

Date: 10/31/2003 (328129)

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

Date: 11/30/2003 (328130)

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: 12/19/2003 (252681)

Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
Description: Failure to operate and maintain the wastewater treatment plant to prevent the discharge and accumulation of sludge in the receiving stream. Sludge was noted in the receiving stream on 10/21/03 and again on 11/04/03.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Description: Failure to report the discharge of sludge to the receiving stream in accordance with the permit. The unauthorized discharges occurred on 10/20/03 and 11/04/03.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
40 CFR Chapter 403, SubChapter N, PT 403 403.5
Description: Failure to prevent the introduction of pollutants which adversely affect the wastewater treatment plant. According to Shannon Marsh, operator, an unknown substance has entered the plant on 4 separate occasions since 09/03.

Self Report? NO
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted effluent limits.
Classification: Moderate

Date: 06/30/2004 (367456)

Self Report? YES
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
Classification: Moderate

Date: 07/31/2004 (367457)

Self Report? YES
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
Classification: Moderate

Date: 01/31/2006 (493007)

Self Report? YES
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
Classification: Moderate

Date: 02/28/2006 (506559)

Self Report? YES
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
Classification: Moderate

Date: 08/31/2006

Self Report? YES
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
Classification: Moderate

Date: 09/30/2006

Self Report? YES
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
Classification: Moderate

Date: 10/31/2006

Self Report? YES
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
Classification: Moderate

Date: 11/30/2006

Self Report? YES
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
Classification: Moderate

Date: 06/07/2006 (464361)

Self Report? NO
Citation: 30 TAC Chapter 317 317.6(b)(1)(A)
30 TAC Chapter 317 317.6(b)(1)(B)
30 TAC Chapter 317 317.6(b)(1)(C)
30 TAC Chapter 317 317.6(b)(1)(D)
30 TAC Chapter 317 317.6(b)(1)(E)
30 TAC Chapter 317 317.6(b)(1)(F)
30 TAC Chapter 317 317.6(b)(1)(G)
30 TAC Chapter 317 317.6(b)(1)[G]
Rqmt Prov: PERMIT Operational Requirements, Number 1
Description: Failure to maintain the chlorinator.
Classification: Minor

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**
GALILEO MOUNT HOUSTON TX LP	§	
DBA MOUNT HOUSTON UTILITIES	§	
RN102336526	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1232-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Galileo Mount Houston TX LP dba Mount Houston Utilities ("Galileo") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Galileo presented this agreement to the Commission.

Galileo understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Galileo agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Galileo.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Galileo owns a wastewater treatment facility located approximately 680 feet north of the intersection of United States Highway 59 and Mount Houston Road in Harris County, Texas (the "Facility").

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

3. During an investigation on May 24, 2007, TCEQ staff documented an accumulation of sludge from the Facility in the receiving stream. Sludge was present from the point of discharge (the outfall) to approximately 120 feet downstream, ranging in depth from 6 inches to one foot. The stream had a strong septic odor and bloodworms were present. Samples taken at the outfall contained 36,000 colonies per 100 milliliters ("col/mL") of fecal coliform and 120 feet downstream of the outfall contained 32,000 col/100 mL of fecal coliform.

4. During an investigation on May 24, 2007, TCEQ staff determined that Galileo did not report the overflow of sludge into the receiving stream to the TCEQ.

5. During an investigation on May 24, 2007, TCEQ staff observed that only one of the three available blowers was operational in the aeration basin and a back-up blower was not available to maintain a sufficient dissolved oxygen ("DO") concentration. Samples taken during the investigation indicated that the DO concentration in the aeration basin ranged between 0.18 milligrams per liter ("mg/L") and 0.3 mg/L, well below the required minimum of 2.0 mg/L DO.

6. During an investigation on May 24, 2007, TCEQ staff observed an excessive build-up of solids at the Facility. The clarifier contained approximately four feet of fluffy sludge and one foot of compact sludge and the chlorine contact chamber contained one foot of dark brown to black sludge.

7. Galileo received notice of the violations on July 25, 2007.

8. The Executive Director recognizes that Galileo has taken the following corrective measures at the Facility:

   a. On July 6, 2007, replaced the blowers in the aeration basin; and

   b. On July 11, 2007, removed and properly disposed of the accumulated sludge from the receiving stream.

II. CONCLUSIONS OF LAW

1. Galileo is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, Galileo failed to prevent the discharge and accumulation of sludge in the receiving stream, 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. 14144001, Permit Conditions No. 2.d.

3. As evidenced by Findings of Fact No. 4, Galileo failed to report any noncompliance which may endanger human health or safety or the environment, in violation of 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. 14144001, Monitoring and Reporting Requirements No. 7.a.

4. As evidenced by Findings of Fact No. 5, Galileo failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5) and 317.4(g)(4)(A) and TPDES Permit No. 14144001, Operational Requirements No. 1.

5. As evidenced by Findings of Fact No. 6, Galileo failed to ensure that the Facility and all of its systems of treatment and control are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. 14144001, Operational Requirements No. 1.

6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Galileo for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

7. An administrative penalty in the amount of Thirty-Five Thousand Four Hundred Ninety Dollars ($35,490) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Galileo has paid the Thirty-Five Thousand Four Hundred Ninety Dollar ($35,490) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Galileo is assessed an administrative penalty in the amount of Thirty-Five Thousand Four Hundred Ninety Dollars ($35,490) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Galileo's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Galileo Mount Houston TX LP dba Mount Houston Utilities, Docket No. 2007-1232-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. Galileo shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, update operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished, in accordance with 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. 14144001, Monitoring and Reporting Requirements No. 7.a.

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a., as described in Ordering Provision No. 2.h. of this section.

c. Within 90 days after the effective date of this Agreed Order, conduct an engineering evaluation of the Facility to assess the causes of excessive solids and necessary corrective actions to restore the Facility to a fully functional and operational system and to maintain a proper level of solids in the system. The evaluation shall be prepared by a licensed Texas professional engineer.

d. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.c., as described in Ordering Provision No. 2.h. of this section.

e. Within 180 days after the effective date of this Agreed Order, complete a plan and schedule for the completion of necessary corrective actions to fully rehabilitate the Facility based on the engineering evaluation. This schedule should allow for completion of all repairs within 365 days after the effective date of this Agreed Order. Galileo shall provide a copy of the plan and schedule to the addresses listed in Ordering Provision No. 2.h. of this section.

f. Within 365 days after the effective date of this Agreed Order, complete all necessary corrective actions to fully rehabilitate the Facility based on the engineering plan and schedule referenced in Ordering Provision No. 2.e. of this section.

g. Within 380 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.f., as described in Ordering Provision No. 2.h. of this section.

h. All certifications shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the Ordering Provisions of this section. The certifications 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 fine and imprisonment for knowing violations."

The certifications 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

3. The provisions of this Agreed Order shall apply to and be binding upon Galileo. Galileo is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If Galileo 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, Galileo's failure to comply is not a violation of this Agreed Order. Galileo shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Galileo shall notify the Executive Director within seven days after Galileo 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 Galileo shall be made in writing to the Executive Director. Extensions are not effective until Galileo receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Galileo if the Executive Director determines that Galileo has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.

8. This Agreed Order, issued by the Commission, shall not be admissible against Galileo 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.

9. 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.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 12/14/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Galileo Mount Houston TX LP dba Mount Houston Utilities. I am authorized to agree to the attached Agreed Order on behalf of Galileo Mount Houston TX LP dba Mount Houston Utilities, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Galileo Mount Houston TX LP dba Mount Houston Utilities waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

_____ 10-17-07
Signature Date

Michael Axelrad _____ Sr. Vice President
Name (Printed or typed) Title
Authorized Representative of
Galileo Mount Houston TX LP dba Mount Houston Utilities

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.