

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2005-0871-MWD-E TCEQ ID: RN102184066 CASE NO.: 25389
RESPONDENT NAME: THE CITY OF HICO

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" 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: 300 Utility Street, Hico, Hamilton County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 January 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Samuel Short, Air Enforcement Division, MC 219, (512) 239-5363 TCEQ Regional Contact: Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3007 Respondent: The Honorable Lavern Tooley, Mayor of City of Hico, P.O. Box 533, Hico, Texas 76457 Respondent's Attorney: Ms. Paige H. Saenz, Knight & Partners, 225 W. Anderson Lane, Ste. A-105</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: March 14, 2005 (Records Review), October 26, 2005 (Investigation)</p> <p>Dates of NOEs Relating to this Case: April 4, 2005 and February 1, 2006</p> <p>Background Facts: EDPRP was filed January 6, 2006. EDFARP was filed May 4, 2006. Settlement was achieved May 21, 2007.</p> <p>MWD:</p> <p>1. Failed to maintain the permitted effluent limits in January 2004, and in August through December 2004 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010188001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p> <p>2. Failed to ensure that the Facility and all its systems of collection, treatment, and disposal were properly operated and maintained [30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(d), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1].</p> <p>3. Failed to make monitoring records readily available for review [30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, and 319.9(c), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 3(c), and Sludge Provisions Section III(F)].</p> <p>4. Failed to maintain the chlorine residual between the permitted limits of 1 and 4mg/L [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010188001, Effluent Limitations and Monitoring Requirements No. 2].</p>	<p>Total Assessed: \$41,170</p> <p>Total Deferred: \$41,170</p> <p>Total Due to General Revenue: \$0</p> <p>The administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: The Respondent has had at least three repeated enforcement actions (NOVs) over the prior five year period for the same violation.</p>	<p>Corrective Measures:</p> <p>The Executive Director recognizes that the Respondent has taken the following corrective measures:</p> <ol style="list-style-type: none"> On August 16, 2005, the city submitted a major permit amendment to the TCEQ. The amendment would allow for expanded capacity from 0.2 MGD to 0.25 MGD. Funding has been secured for construction of a new wastewater treatment facility with an anticipated completion date of December 31, 2007. On November 7, 2005, solids were removed from Jack's Hollow Branch and properly disposed of. On February 13, 2006, the excessive algae was removed from both clarifiers and operational skimmer wiper blades provided. On February 13, 2006, staff installed a larger shield on the aeration basin to prevent discharge of spray from the aeration basin. On February 13, 2006, staff were educated on proper notification requirements to the TCEQ. On February 13, 2006, sodium arsenite and potassium iodide was added to the treatment process, process control records were obtained from the laboratory, and the flow measuring device was calibrated and certified. On February 13, 2006, the chlorine residual was in compliance. <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Begin retaining records at the Facility (including those regarding sludge monitoring and disposal, and quality assurance/quality control) and have them readily available for review by a TCEQ representative;

<p>5. Failed to prevent the discharge of solids into the receiving stream [30 TEX. ADMIN. CODE § 305.125(1) and (4), and 305.535(c)(1), TEX. WATER CODE § 26.121(a), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1].</p> <p>6. Failed to prevent an unauthorized discharge of wastewater from the aeration basin [30 TEX. ADMIN. CODE §§ 305.125(4) and 305.535(c)(1), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1].</p> <p>7. Failed to verbally notify the TCEQ within 24 hours and submit written notification within five days of becoming aware of an unauthorized discharge from the aeration basin [30 TEX. ADMIN. CODE § 305.125(9)(A), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 7(a)].</p> <p>8. Failed to conduct process control testing and failed to conduct proper flow measurement procedures [30 TEX. ADMIN. CODE §§ 305.125(1) and (5), 319.11(c) and (d), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements Nos. 2 and 5, and Operational Requirements No. 1].</p>		<p>b. Verbally notify the TCEQ within 24 hours and submit written notification within five days of becoming aware of an unauthorized discharge; and</p> <p>c. Begin conducting process control testing and proper flow measurement procedures.</p> <p>2. Within 15 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1.a. through 1.c.</p> <p>3. Within 365 days, achieve compliance with permitted effluent limitations contained in TPDES Permit No. WQ0010188001.</p> <p>4. Within 380 days, submit written certification to demonstrate compliance with Ordering Provision No. 3.</p> <p>5. The Respondent shall implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>
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Attachment A
Docket Number: 2005-0871-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hico
Penalty Amount:	Forty-One Thousand One Hundred Seventy Dollars (\$41,170)
SEP Offset Amount:	Forty-One Thousand One Hundred Seventy Dollars (\$41,170)
Type of SEP:	Custom – sewer project for low income individuals
Location of SEP:	Hamilton 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 provide first-time sewer service to approximately ten low- to moderate-income residences, which are currently on septic systems, to the sanitary sewer system. The existing septic systems are failing and result in release of sewage to the environment. The project shall include purchasing and installing sewer system lateral lines, clean-outs, a manhole, and other materials required to complete the work and make it fully operational.

The City shall properly decommission and abandon the residents’ old septic tanks. This project shall be done at no cost to the homeowners. The Respondent shall perform this project in accordance with all federal, state and local environmental 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. If the Respondent utilizes City labor to perform the project, labor shall be used after hours or on weekends and labor shall be paid at an overtime rate.

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

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

This SEP will provide a discernible environmental benefit by diminishing the potential health threats associated with release of sewage to the environment.

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. Respondent understands that completion of this SEP may cost more than the Offset Amount.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall complete the project within 365 days 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 within the time required above.

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 homes actually connected;
5. Map showing specific location of the project area after completion;
6. Photographs of the project; and

7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

Copies of receipts, checks, invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

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.

In the event of incomplete performance, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "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 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.

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 May 19, 2005

DATES	Assigned	11-Apr-2006	Screening	28-Apr-2005	EPA Due	
	PCW	10-Oct-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Hico
Reg. Ent. Ref. No.	RN102184066
Facility/Site Region	9-Waco <
Major/Minor Source	Minor Source <

CASE INFORMATION			
Enf./Case ID No.	25389	No. of Violations	1
Docket No.	2005-0871-MWD-E	Order Type	Findings <
Media Program(s)	Water Quality <	Enf. Coordinator	Laurie Eaves
Multi-Media		EC's Team	Enforcement Team 1 <
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$3,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 204% Enhancement **Subtotals 2, 3, & 7** \$6,120

Notes The Respondent self-reported 39 months of effluent violations. The Respondent was issued one NOV for the same or similar violations and two NOVs not considered the same or similar.

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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The Respondent is not yet in compliance.

Economic Benefit 50% Enhancement* **Subtotal 6** \$1,500

Total EB Amounts	\$163,151	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$1,000,000	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$10,620

OTHER FACTORS AS JUSTICE MAY REQUIRE 1% Reduction **Adjustment** -\$150

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

Notes Recommended reduction to prevent the monthly self-reported violations from overly impacting the penalty.

Final Penalty Amount \$10,470

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$10,470

DEFERRAL 0% Reduction **Adjustment** \$0

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

Notes Not an expedited action.

PAYABLE PENALTY \$10,470

Screening Date 28-Apr-2005 **Docket No.** 2005-0871-MWD-E **PCW**
Respondent City of Hico *Policy Revision 2 (September 2002)*
Case ID No. 25389 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102184066
Media [Statute] Water Quality
Enf. Coordinator Laurie Eaves

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>)	40	200%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (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 (<i>number of audits for which notices were</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) 204%

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

No < **Adjustment Percentage (Subtotal 3) 0%**

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

Average Performer < **Adjustment Percentage (Subtotal 7) 0%**

>> **Compliance History Summary**

Compliance History Notes The Respondent self-reported 39 months of effluent violations. The Respondent was issued one NOV for the same or similar violations and two NOVs not considered the same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 204%

Screening Date 28-Apr-2005

Docket No. 2005-0871-MWD-E

PCW

Respondent City of Hico

Policy Revision 2 (September 2002)

Case ID No. 25389

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102184066

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010188001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to comply with permitted effluent limitations as detailed in the attached effluent chart, as documented during a record review conducted on March 14, 2005.

Base Penalty

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input checked="" type="checkbox"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<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 Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$1,000,000	01-Jan-2004	06-Apr-2007	3.3	\$163,151	n/a	\$163,151
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 associated with construction of a new expanded facility. Date Required is the first month of noncompliance. Final Date is the anticipated 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 \$1,000,000

TOTAL \$163,151

City of Hico
RN102184066

Month	pH Minimum Limit = 6.0 s.u.	Total Suspended Solids Daily Average Concentration Limit = 20 mg/L	Flow Daily Average Limit = 0.20 MGD	Total Phosphorus Daily Average Loading Limit = 3.2 lbs/day
January 2004	c	c	0.85	c
August 2004	c	c	c	3.6
September 2004	c	c	0.99	3.6
October 2004	5.4	c	c	3.3
November 2004	5.4	c	c	4.3
December 2004	c	23.0	c	c

s.u. = standard units

mg/L = milligrams per liter

lbs/day = pounds per day

c = compliant

MGD = million gallons per day



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	06-Feb-2006		
	PCW	22-Feb-2006	Screening	22-Feb-2006
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Hico
Reg. Ent. Ref. No.	RN102184066
Facility/Site Region	9-Waco
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	25389	No. of Violations	8
Docket No.	2005-0871-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7

Notes: The Respondent self-reported 39 months of effluent violations. The Respondent was issued two NOV's for the same or similar violations and one NOV not considered the same or similar.

Culpability Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes: The Respondent is not yet in compliance.

Economic Benefit Subtotal 6

Total EB Amounts	<input type="text" value="\$124"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$12,600"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: Not an expedited action.

PAYABLE PENALTY

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media [Statute]	Water Quality			
Enf. Coordinator	Laurie Eaves			

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>)	41	205%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	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) 207%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported 39 months of effluent violations. The Respondent was issued two NOV's for the same or similar violations and one NOV not considered the same or similar.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 207%

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media [Statute]	Water Quality			
Enf. Coordinator	Laurie Eaves			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(5) and 317.4(d), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1			
Secondary Rule Cite(s)				
Violation Description	Failure to at all times ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, an excessive amount of algae was noted on both clarifiers, one clarifier wiper blade did not contact the battle ring and the other clarifier did not have a skimmer wiper blade, as documented during an investigation conducted on October 26, 2005.			
Base Penalty	\$10,000			

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

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			X
				Percent 5%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent

Matrix Notes Human health or the environment will or could be exposed to pollutants which would not exceed protective levels.

Adjustment -\$9,500

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$500

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$30	Violation Final Penalty Total \$1,535
This violation Final Assessed Penalty (adjusted for limits) \$1,535	

Economic Benefit Worksheet

Respondent City of Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	26-Oct-2005	13-Feb-2006	0.3	\$30	n/a	\$30

Notes for DELAYED costs: Estimated cost associated with repairing/providing clarifier skimmer blades and removal of the excess algae from the clarifiers. Date Required is the date of the investigation. Final Date is the date of the notice of corrective action.

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

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media/Statute	Water Quality			
Enf. Coordinator	Laurie Eaves			

Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description

30 Tex. Admin. Code §§ 305.125(1), 319.6, and 319.9(c), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 3(c) and Sludge Provisions, Section III(F)

Failure to make monitoring records readily available for review. Specifically, sludge monitoring and disposal records, and quality assurance/quality control records from laboratory sample analysis were not available, as documented during an investigation conducted on October 26, 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$23"/>	Violation Final Penalty Total <input type="text" value="\$3,070"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,070"/>	

Economic Benefit Worksheet

Respondent City of Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] 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
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	\$500	26-Oct-2005	01-Oct-2006	0.9	\$23	n/a	\$23
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 associated with proper record keeping. Date Required is the date of the investigation. Final Date is the anticipated date of compliance.

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

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media [Statute]	Water Quality			
Enf. Coordinator	Laurie Eaves			

Violation Number	3
Primary Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010188001, Effluent Limitations and Monitoring Requirements No. 2
Secondary Rule Cite(s)	
Violation Description	Failure to maintain the chlorine residual between the permitted limits of 1 and 4 mg/L. Specifically, Regional staff collected a grab sample revealing a chlorine level of 0.39 mg/L, as documented during an investigation conducted on October 26, 2005.
Base Penalty <input type="text" value="\$10,000"/>	

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

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$8"/>	Violation Final Penalty Total <input type="text" value="\$3,070"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,070"/>	

Economic Benefit Worksheet

Respondent City of Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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	26-Oct-2005	13-Feb-2006	0.3	\$8	n/a	\$8

Notes for DELAYED costs: Estimated cost associated with proper oversight and sampling which might have prevented or alleviated the noncompliance. Date Required is the date of the investigation. Final Date is the date of the notice of corrective action.

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

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media (Statute)	Water Quality			
Enf. Coordinator	Laurie Eaves			

Violation Number	4
Primary Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), 305.125(4), and 305.535(c)(1), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1
Secondary Rule Cite(s)	
Violation Description	Failure to prevent the discharge of solids into the receiving stream. Specifically, a substantial accumulation of solids, with bloodworms present, were noted in Jack's Hollow Branch. Samples revealed E-coli form levels of 2,380 most probable number ("mpn") per 100 milliliters at the outfall and 3,640 mpn 33-yards downstream of the outfall
Base Penalty	\$10,000

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual	X			
	Potential				50%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Human health or the environment has been exposed to pollutants which exceeded protective levels.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	X
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$5,000

One monthly event is recommended from the the investigation date of October 26, 2005 through the cleanup date of November 7, 2005.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$8"/>	Violation Final Penalty Total <input type="text" value="\$15,350"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$15,350"/>	

Economic Benefit Worksheet

Respondent City of Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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	\$5,000	26-Oct-2005	07-Nov-2005	0.0	\$8	n/a	\$8
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost associated with removal of all sludge in the receiving stream. Date Required is the date of the investigation. Final Date is the date of the cleanup.

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

Notes for AVOIDED costs: [Redacted]

Approx. Cost of Compliance

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	25389			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN102184066			
Media [Statute]	Water Quality			
Enf. Coordinator	Laurie Eaves			

Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description
 30 Tex. Admin. Code § 305.125(4) and 305.535(c)(1), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1
 Failure to prevent an unauthorized discharge of wastewater from the aeration basin, as documented during an investigation conducted on October 26, 2005.

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="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

Matrix Notes
 Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed protective levels.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

One single 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 Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item	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)	\$1,000	26-Oct-2005	27-Oct-2005	0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost associated with proper training and oversight which might have prevented the noncompliance. Date Required is the date of the investigation. Final Date is the date of corrective action.

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: [Redacted]

Approx. Cost of Compliance:

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media/Statute	Water Quality			
Enf. Coordinator	Laurie Eaves			

Violation Number	6
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(9)(A) and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 7(a)
Secondary Rule Cite(s)	
Violation Description	Failure to verbally notify the TCEQ within 24 hours and submit written notification within five days of becoming aware of the unauthorized discharge from the aeration basin, as documented during an investigation conducted on October 26, 2005.
Base Penalty	\$10,000

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

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	Percent
			X			
Matrix Notes	100% of the requirement was not met.					

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$2"/>	Violation Final Penalty Total <input type="text" value="\$3,070"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,070"/>	

Economic Benefit Worksheet

Respondent City of Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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)	\$100	26-Oct-2005	13-Feb-2006	0.3	\$2	n/a	\$2
Notes for DELAYED costs	Estimated cost associated with training personnel. Date Required is the date of the investigation. Final Date is the date of the notice of corrective action.						

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

Screening Date	22-Feb-2006	Docket No.	2005-0871-MWD-E	PCW
Respondent	City of Hico	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	25389	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102184066			
Media (Statute)	Water Quality			
Enf. Coordinator	Laurie Eaves			

Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description

30 Tex. Admin. Code §§ 305.125(1), 305.125(5), 319.11(c), 319.11(d) and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements Nos. 2 and 5 and Operational Requirements No. 1

Failure to analyze according to proper test procedures for chlorine analysis, failure to conduct process control testing, and failure conduct proper flow measurement procedures. Specifically, not performing adequate oxidized manganese corrections for the residual chlorine determination, not performing process control measurements, and failure to calibrate the flow measuring device annually and ensure proper flow measurements, as documented during an investigation conducted on October 26, 2005.

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$53"/>	Violation Final Penalty Total <input type="text" value="\$1,535"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,535"/>	

Economic Benefit Worksheet

Respondent City of Hico
 Case ID No. 25389
 Reg. Ent. Reference No. RN102184066
 Media [Statute] Water Quality
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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	\$3,500	26-Oct-2005	13-Feb-2006	0.3	\$53	n/a	\$53
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 associated with training personnel, implementing procedures, and calibration of the flow measuring device. Date Required is the date of the investigation. Final Date is the date of the notice of corrective action.						

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 \$3,500

██████████ \$53

Screening Date 22-Feb-2006

Docket No. 2005-0871-MWD-E

PCW

Respondent City of Hico

Policy Revision 2 (September 2002)

Case ID No. 25389

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102184066

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number 8

Primary Rule Cite(s)

30 Tex. Admin. Code § 317.4(a)(8) and 317.7(l), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1

Secondary Rule Cite(s)

Violation Description

Failure to install atmospheric vacuum breakers on the hose bibs, as documented during an investigation conducted on October 26, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm		
Release		Major	Moderate	Minor
OR	Actual			
	Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Human health or the environment will or could be exposed to significant pollutants which would not exceed protective levels.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended from the investigation date of October 26, 2005 to the date the atmospheric vacuum breakers were installed on January 31, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$6,140

This violation Final Assessed Penalty (adjusted for limits) \$6,140

Economic Benefit Worksheet

Respondent City of Hico
Case ID No. 25389
Reg. Ent. Reference No. RN102184066
Media [Statute] Water Quality
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	\$100	26-Oct-2005	31-Jan-2006	0.3	\$0	\$2	\$2
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 associated with installation of atmospheric vacuum breakers on the hose bibs. Date Required is the date of the investigation. 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 \$100

TOTAL \$2

Compliance History

Customer/Respondent/Owner-Operator: CN601180524 City of Hico
Regulated Entity: RN102184066 CITY OF HICO
ID Number(s): WASTEWATER LICENSING
WASTEWATER
WASTEWATER
WASTEWATER
USED OIL

Classification: AVERAGE
Classification: AVERAGE

Rating: 0.620
Site Rating: 1.86
WQ0010188001
TX0026590
TPDES0026590
WQ0010188001
C81043

LICENSE
PERMIT
PERMIT
PERMIT
REGISTRATION

Location: 300 UTILITY ST, HICO, TX, 76457
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: May 05, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 05, 2000 to May 05, 2005

Rating Date: 9/1/04 Repeat Violator: NO

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Joseph Daley Phone: 239-3308

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

2 03/07/2001 (38752)
4 01/17/2002 (174285)
6 01/16/2003 (174286)
8 01/18/2001 (174288)
10 01/17/2002 (174289)
12 02/22/2001 (174248)
14 10/23/2003 (302219)
16 01/16/2003 (174290)
18 03/25/2002 (174249)
20 12/10/2003 (302220)
22 12/10/2003 (302221)
24 03/17/2003 (174250)
26 02/20/2004 (302222)
28 03/30/2001 (174251)
30 03/25/2002 (174252)
32 04/14/2003 (174253)
34 05/23/2001 (174256)
36 05/22/2002 (174257)
38 08/28/2003 (150447)
40 04/14/2003 (174258)
42 05/22/2000 (174259)
44 06/14/2001 (174260)
46 05/22/2002 (174261)
48 06/12/2003 (174262)
50 06/16/2000 (174263)
52 07/23/2001 (174264)
54 07/16/2004 (354823)
56 07/24/2002 (174265)
58 07/16/2004 (354824)
60 06/12/2003 (174266)

62 08/18/2004 (354825)
 64 08/25/2004 (354826)
 66 10/07/2004 (354827)
 68 07/26/2000 (174267)
 70 11/09/2004 (354828)
 72 07/23/2001 (174268)
 74 06/16/2000 (130763)
 76 11/09/2004 (354829)
 78 07/24/2002 (174269)
 80 08/28/2000 (174270)
 82 10/02/2001 (174271)
 84 09/11/2002 (174272)
 86 09/18/2000 (174273)
 88 06/10/2004 (274188)
 90 10/02/2001 (174274)
 92 09/11/2002 (174275)
 94 07/03/2003 (31877)
 96 10/23/2000 (174276)
 98 11/09/2001 (174277)
 100 02/20/2004 (302203)
 102 11/21/2002 (174278)
 104 04/28/2004 (302206)
 106 04/28/2004 (302207)
 108 11/27/2000 (174280)
 110 06/07/2004 (302209)
 112 11/16/2001 (174281)
 114 11/15/2002 (174282)
 116 08/13/2003 (302212)
 118 04/05/2005 (374101)
 120 08/18/2003 (302214)
 122 12/20/2000 (174284)
 124 10/23/2003 (302216)
 126 05/12/2004 (264419)

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

Date: 11/30/2001 (174285)
 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: 11/30/2002 (174286)
 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: 07/03/2003 (31877)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.9(c)
 Description: Failure to provide copies of the required QA/QC procedures.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.6
 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to calibrate the chlorine analyzer as required.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to provide calibration records for the chlorine analyzer.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IA
 Description: Failure to maintain the required minimum Total Chlorine residual of 1.0 mg/l.

Date: 08/31/2003 (302216)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2001 (174289)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (302219)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2002 (174290)

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 (302220)

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: 01/31/2002 (174249)

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 (302221)

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: 01/31/2003 (174250)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/31/2003 (302222)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2002 (174252)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2003 (174253)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2002 (174257)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2003 (174258)

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: 04/30/2001 (174260)

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: 04/30/2002 (174261)

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Rqmt Prov: PERMIT IA
 Description: Failure to take appropriate measures to comply with the 75/90 rule requirement.
 Date: 04/28/2004 (264419)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IA
 Description: Failure to conduct and provide documentation of the calibration of the electronic flow meter.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)[G]

Rqmt Prov: PERMIT IA
 Description: Failure to operate and maintain the facilities in such a manner as to prevent solids handling problems

Date: 04/30/2003 (174262)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2001 (174264)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2002 (174265)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2003 (174266)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (354827)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (354828)
 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: 06/15/2000 (130763)
 Self Report? NO Classification: Moderate
 Citation: 40 CFR Chapter 279, SubChapter I, PT 279, SubPT C 279.22(c)(1)
 Description: FAILURE TO COMPLY

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 Description: FAILURE TO COMPLY

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 324, SubChapter A 324.1
 Description: FAILURE TO COMPLY

Date: 06/30/2001 (174268)
 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: 10/31/2004 (354829)
 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: 06/30/2002 (174269)
 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: 07/31/2001 (174271)
 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: 07/31/2002 (174272)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2001 (174274)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2002 (174275)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 09/30/2001 Description: Failure to meet the limit for one or more permit parameter
 (174277)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 01/31/2004 Description: Failure to meet the limit for one or more permit parameter
 (302203)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 09/30/2002 Description: Failure to meet the limit for one or more permit parameter
 (174278)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 10/31/2001 Description: Failure to meet the limit for one or more permit parameter
 (174281)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 06/30/2003 Description: Failure to meet the limit for one or more permit parameter
 (302212)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 10/31/2002 Description: Failure to meet the limit for one or more permit parameter
 (174282)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 07/31/2003 Description: Failure to meet the limit for one or more permit parameter
 (302214)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 11/30/2004 Description: Failure to meet the limit for one or more permit parameter
 (302203)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

Date: 12/31/2004 Description: Failure to meet the limit for one or more permit parameter
 (302203)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING THE CITY OF HICO; RN102184066

§ § § § §

BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2005-0871-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hico ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Paige H. Saenz of the law firm of Knight & Partners, presented this agreement to the Commission.

The City 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, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement 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 the City.

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

- a. On August 16, 2005, the City submitted a major permit amendment to the TCEQ. The amendment would allow for expanded capacity from 0.2 MGD to 0.25 MGD. Funding has been secured for construction of a new wastewater treatment facility with an anticipated completion date of December 31, 2007;
b. On November 7, 2005, solids were removed from Jack's Hollow Branch and properly disposed of;

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- c. On February 13, 2006, the excessive algae was removed from both clarifiers and operational skimmer wiper blades provided;
- d. On February 13, 2006, staff installed a larger shield on the aeration basin to prevent discharge of spray from the aeration basin;
- e. On February 13, 2006, staff were educated on proper notification requirements to the TCEQ;
- f. On February 13, 2006, sodium arsenite and potassium iodide was added to the treatment process, process control records were obtained from the laboratory, and the flow measuring device was calibrated and certified; and
- g. On February 13, 2006, the chlorine residual was in compliance.

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

FINDINGS OF FACT

1. The City owns and operates a domestic wastewater treatment facility located at 300 Utility Street, Hico, Hamilton County, Texas (the "Facility"). The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.
2. During a record review conducted on March 14, 2005, a TCEQ Central Office investigator documented that the City exceeded permitted effluent limits in January 2004, and in August through December 2004 (*see* Attachment "B," Effluent Limit Violation Table).
3. During an investigation conducted on October 26, 2005, a TCEQ Waco Regional Office investigator documented that the City:
 - a. Failed to ensure that the Facility and all its systems of collection, treatment, and disposal were properly operated and maintained. Specifically, an excessive amount of algae was noted on both clarifiers, one clarifier wiper blade did not contact the battle ring, and the other clarifier did not have a skimmer wiper blade;
 - b. Failed to make monitoring records readily available for review. Specifically, sludge monitoring and disposal records, and quality assurance/quality control records from laboratory sample analysis were not available;

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- c. Failed to maintain the chlorine residual between the permitted limits of 1 and 4 milligrams per liter ("mg/L"). Specifically, Regional staff collected a grab sample revealing a chlorine level of 0.39 mg/L;
 - d. Failed to prevent the discharge of solids into the receiving stream. Specifically, a substantial accumulation of solids, with bloodworms present, were noted in Jack's Hollow Branch. Samples revealed E-coli form levels of 2,380 most probable number ("mpn") per 100 milliliters at the outfall, and 3,640 mpn at 33 yards downstream of the outfall;
 - e. Failed to prevent an unauthorized discharge of wastewater from the aeration basin;
 - f. Failed to verbally notify the TCEQ within 24 hours and submit written notification within five days of becoming aware of an unauthorized discharge from the aeration basin; and
 - g. Failed to conduct process control testing, and failed to conduct proper flow measurement procedures. Specifically, the City did not perform process control measurements, did not calibrate the flow measuring device annually, and did not ensure proper flow measurements.
4. The City received notice of the violation in paragraph 2 on or about April 10, 2005. The City received notice of the violations in paragraph 3 on or about February 6, 2006.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the City is subject to the jurisdiction of the TCEQ pursuant TEX. WATER CODE chs. 7 and 26.
2. As evidenced by Finding of Fact No. 2, the City exceeded permitted effluent limits in January 2004, and in August through December 2004, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010188001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3.
3. As evidenced by Finding of Fact No. 3.a., the City failed to ensure that the Facility and all its systems of collection, treatment, and disposal were properly operated and maintained, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 317.4(d), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1.

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4. As evidenced by Finding of Fact No. 3.b., the City failed to make monitoring records readily available for review, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, and 319.9(c), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 3(c), and Sludge Provisions Section III(F).
5. As evidenced by Finding of Fact No. 3.c., the City failed to maintain the chlorine residual between the permitted limits of 1 and 4 mg/L, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010188001, Effluent Limitations and Monitoring Requirements No. 2.
6. As evidenced by Finding of Fact No. 3.d., the City failed to prevent the discharge of solids into the receiving stream, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and 305.535(c)(1), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1.
7. As evidenced by Finding of Fact No. 3.e., the City failed to prevent an unauthorized discharge of wastewater from the aeration basin, in violation of 30 TEX. ADMIN. CODE §§ 305.125(4) and 305.535(c)(1), and TPDES Permit No. WQ0010188001, Operational Requirements No. 1.
8. As evidenced by Finding of Fact No. 3.f., the City failed to verbally notify the TCEQ within 24 hours and submit written notification within five days of becoming aware of an unauthorized discharge from the aeration basin, in violation of 30 TEX. ADMIN. CODE § 305.125(9)(A), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 7(a).
9. As evidenced by Finding of Fact No. 3.g., the City failed to conduct process control testing and failed to conduct proper flow measurement procedures, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5), 319.11(c) and (d), and TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements Nos. 2 and 5, and Operational Requirements No. 1.
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water 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.
11. An administrative penalty in the amount of forty-one thousand one hundred seventy dollars (\$41,170.00) 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. Forty-one thousand one hundred seventy dollars (\$41,170.00) of the administrative penalty shall be conditionally offset by the City's

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completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

ORDERING PROVISIONS

1. The City is assessed an administrative penalty in the amount of forty-one thousand one hundred seventy dollars (\$41,170.00) as set forth in Conclusion of Law No. 11. The payment of this administrative penalty and the City'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 "Texas Commission on Environmental Quality" and shall be sent with the notation "re: the City of Hico, Docket No. 2005-0871-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 undertake the following technical requirements:
 - a. Immediately upon the effective date of this Commission Order, the City shall:
 - i. Begin retaining records at the Facility (including those regarding sludge monitoring and disposal, and quality assurance/quality control) and have them readily available for review by a TCEQ representative, in accordance with TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements Nos. 3(c) and 3(b), and Sludge Provisions Section III(F);
 - ii. Verbally notify the TCEQ within 24 hours and submit written notification within five days of becoming aware of an unauthorized discharge, in accordance with TPDES Permit No. WQ0010188001, Monitoring and Reporting Requirements No. 7(a); and
 - iii. Begin conducting process control testing and proper flow measurement procedures, in accordance with TPDES Permit No. WQ0010188001,

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Monitoring and Reporting Requirements Nos. 2 and 5, and Operational Requirements No. 1.

- b. Within 15 days after the effective date of the Commission Order, the City shall submit written certification (as described in Ordering Provision No. 2.d., below) to certify compliance with Ordering Provision Nos. 2.a.i. through iii.
- c. Within 365 days after the effective date of this Agreed Order, the City shall achieve compliance with permitted effluent limitations contained in TPDES Permit No. WQ0010188001.
- d. Within 380 days after the effective date of the Commission Order, the City shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c., above.

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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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 City shall submit copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

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Frank Burleson, Water Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Ste. 2500
Waco, Texas 76710

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. the City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. the City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all 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 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.
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

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transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

10. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the fully executed approved Order to the City, or three days after the date on which the Commission mails notice of the fully executed Order to the City, whichever is earlier. The Chief Clerk shall provide a fully-executed copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

11/29/07

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity 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 in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on the City's compliance history;
- Greater scrutiny of any permit applications submitted by the City;
- 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 the City;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the City; and
- TCEQ seeking other relief as authorized by law.

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

[Handwritten Signature]
Signature

05-21-07
Date

Lavern Tooley
Name (Printed or typed)
Authorized representative of the City of Hico

Mayor
Title

Attachment A

Docket Number: 2005-0871-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hico
Penalty Amount:	Forty-One Thousand One Hundred Seventy Dollars (\$41,170)
SEP Offset Amount:	Forty-One Thousand One Hundred Seventy Dollars (\$41,170)
Type of SEP:	Custom – sewer project for low income individuals
Location of SEP:	Hamilton 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 provide first-time sewer service to approximately ten low- to moderate-income residences, which are currently on septic systems, to the sanitary sewer system. The existing septic systems are failing and result in release of sewage to the environment. The project shall include purchasing and installing sewer system lateral lines, clean-outs, a manhole, and other materials required to complete the work and make it fully operational.

The City shall properly decommission and abandon the residents’ old septic tanks. This project shall be done at no cost to the homeowners. The Respondent shall perform this project in accordance with all federal, state and local environmental 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. If the Respondent utilizes City labor to perform the project, labor shall be used after hours or on weekends and labor shall be paid at an overtime rate.

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

Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

This SEP will provide a discernible environmental benefit by diminishing the potential health threats associated with release of sewage to the environment.

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. Respondent understands that completion of this SEP may cost more than the Offset Amount.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall complete the project within 365 days 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 within the time required above.

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 homes actually connected;
5. Map showing specific location of the project area after completion;
6. Photographs of the project; and

7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

Copies of receipts, checks, invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

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.

In the event of incomplete performance, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "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 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.

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.