

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0752-MWD-E TCEQ ID: RN101720886 CASE NO.: 37653

RESPONDENT NAME: HAMMOND MOUND UTILITIES, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Hammond Mound Utilities WWTP, located approximately 1.2 miles east of the intersection of Adams Flat Road and Wilson Road, approximately 0.35 mile west of the intersection of Farm-to-Market Road 529 and Farm-to-Market Road 362, Waller County</p> <p>TYPE OF OPERATION: 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 September 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mark Marcotte, Director, HAMMOND MOUND UTILITIES, INC., P.O. Box 11910, Houston, Texas 77293 Ms. L. J. Marcotte, Secretary, HAMMOND MOUND UTILITIES, INC., P.O. Box 11910, Houston, Texas 77293 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 6, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 14, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013984001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$1,300</p> <p>Total Deferred: \$260 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,040</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>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013984001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0013984001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	18-May-2009	Screening	19-May-2009	EPA Due	
	PCW	19-May-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	HAMMOND MOUND UTILITIES, INC.
Reg. Ent. Ref. No.	RN101720886
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37653	No. of Violations	1
Docket No.	2009-0752-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Lanae Foard
		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)	<i>Subtotal 1</i>	\$1,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	30.0% Enhancement	<i>Subtotals 2, 3, & 7</i> \$300
Notes	An enhancement is recommended due to six self-reported monthly effluent violations.	
Culpability	No 0.0% Enhancement	<i>Subtotal 4</i> \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i> \$0
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i> \$0
Total EB Amounts	\$118	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	
SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$1,300
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes		
	<i>Final Penalty Amount</i>	\$1,300
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i> \$1,300
DEFERRAL	20.0% Reduction Adjustment	-\$260
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$1,040

Screening Date 19-May-2009 **Docket No.** 2009-0752-MWD-E
Respondent HAMMOND MOUND UTILITIES, INC.
Case ID No. 37653
Reg. Ent. Reference No. RN101720886
Media [Statute] Water Quality
Enf. Coordinator Lanae Foard

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2) 30%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

An enhancement is recommended due to six self-reported monthly effluent violations.

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

Screening Date 19-May-2009	Docket No. 2009-0752-MWD-E	PCW		
Respondent HAMMOND MOUND UTILITIES, INC.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37653		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101720886				
Media [Statute] Water Quality				
Enf. Coordinator Lanae Foard				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013984001, Effluent Limitations and Monitoring Requirements No. 1			
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review on April 6, 2009 and as shown in the attached violation table.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="10%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.			
	Adjustment	<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="61"/>	Number of violation days
	<i>mark only one with an x</i>	daily	<input type="text"/>	
		weekly	<input type="text"/>	
		monthly	<input type="text"/>	
		quarterly	<input checked="" type="checkbox"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input type="text"/>	
		One quarterly event is recommended.		
	Violation Base Penalty	<input type="text" value="\$1,000"/>		
Good Faith Efforts to Comply				
	<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>	
		Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
	Violation Subtotal	<input type="text" value="\$1,000"/>		
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$118"/>	Violation Final Penalty Total	<input type="text" value="\$1,300"/>
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,300"/>		

Economic Benefit Worksheet

Respondent: HAMMOND MOUND UTILITIES, INC.

Case ID No.: 37653

Reg. Ent. Reference No.: RN101720886

Media: Water Quality

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$1,500	31-Oct-2008	15-Dec-2009	1.12	\$6	\$112	\$118
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to re-route the ditch that was next to the manhole and to install a liner in the manhole. Date required is the first date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$118

EFFLUENT VIOLATION TABLE		
HAMMOND MOUND UTILITIES, INC.		
TPDES Permit No. WQ0013984001		
Docket No. 2009-0752-MWD-E		
Permitted Effluent Limits	Monitoring Period End Date	
	10/31/08	11/30/08
TSS daily avg. conc. limit = 15 mg/L	23.2	39.1
TSS single grab conc. limit = 60 mg/L	72.0	94.0

TSS = Total Suspended Solids
mg/L = milligrams per liter
conc. = concentration
avg. = average

Compliance History Report

Customer/Respondent/Owner-Operator: CN600666523 HAMMOND MOUND UTILITIES, INC. Classification: AVERAGE Rating: 0.64
 Regulated Entity: RN101720886 HAMMOND MOUND UTILITIES WWTP Classification: AVERAGE Site Rating: 0.64
 ID Number(s): WASTEWATER PERMIT WQ0013984001
 WASTEWATER PERMIT TPDES0117366
 WASTEWATER PERMIT TX0117366
 Location: LOCATED APPROX 1.2 MILES EAST OF THE INTERSECTION OF ADAMS FLAT ROAD AND WILSON ROAD, APPROXIMATELY 0.35 MILE WEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 529 & FARM-TO-MARKET ROAD 362 IN WALLER COUNTY, TX
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: May 19, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 19, 2004 to May 19, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Lanae Foard Phone: 512 - 239 - 2554

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	07/19/2007	(630659)
2	07/19/2007	(630660)
3	07/19/2007	(630661)
4	09/05/2007	(630662)
5	09/27/2007	(630663)
6	10/16/2007	(630664)
7	11/20/2007	(630665)
8	12/27/2007	(630666)
9	01/16/2008	(677086)
10	02/19/2008	(677085)
11	03/20/2008	(695723)
12	04/10/2008	(695724)
13	05/13/2008	(695725)
14	06/18/2008	(717269)
15	07/14/2008	(717270)
16	08/14/2008	(717271)
17	09/22/2008	(717272)
18	11/20/2008	(732665)
19	11/20/2008	(732666)
20	12/12/2008	(732667)
21	12/31/2008	(732668)
22	05/14/2009	(741693)

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

Date: 05/31/2007 (630660) CN600666523

Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)

Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2007	(630661)	CN600666523
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2007	(630662)	CN600666523
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2008	(732666)	CN600666523
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2008	(732667)	CN600666523
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2008	(732668)	CN600666523
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
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
HAMMOND MOUND UTILITIES,
INC.
RN101720886

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0752-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located approximately 1.2 miles east of the intersection of Adams Flat Road and Wilson Road, approximately 0.35 mile west of the intersection of Farm-to-Market Road 529 and Farm-to-Market Road 362 in Waller County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 19, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Three Hundred Dollars (\$1,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Forty Dollars (\$1,040) of the administrative penalty and Two Hundred Sixty Dollars (\$260) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013984001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review on April 6, 2009 and as shown in the following effluent violation table:

EFFLUENT VIOLATION TABLE		
Permitted Effluent Limits	Monitoring Period End Date	
	10/31/08	11/30/08
TSS daily avg. conc. limit = 15 mg/L	23.2	39.1
TSS single grab conc. limit = 60 mg/L	72.0	94.0

TSS = Total Suspended Solids
 conc. = concentration
 mg/L = milligrams per liter
 avg. = average

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: HAMMOND MOUND UTILITIES, INC., Docket No. 2009-0752-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. It is further ordered that, within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013984001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan
For the Executive Director

8/19/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

LJ Marcotte
Signature

7-8-09
Date

L.J. Marcotte
Name (Printed or typed)
Authorized Representative of
HAMMOND MOUND UTILITIES, INC.

SECRETARY
Title

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

