

**City of Agua Dulce**  
 RN101720993  
 Docket No. 2020-0179-MLM-E

**Order Type:**  
 Agreed Order

**Media:**  
 MLM: MSW and WQ

**Small Business:**  
 N/A

**Location(s) Where Violation(s) Occurred:**  
 approximately 450 feet southeast of the intersection of State Highway 44 East and Farm-to-Market Road 70, in Nueces County

**Type of Operation:**  
 wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** February 10, 2023

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$35,064

**Deferred for Financial Inability to Pay:** \$35,064  
 Confidential information, which may include financial information, has been provided to the Commission for its consideration.

**Total Due to General Revenue:** \$0

**Compliance History Classifications:**  
 Person/CN - High  
 Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** October 2, 2019

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** November 26, 2019

**City of Agua Dulce**  
RN101720993  
Docket No. 2020-0179-MLM-E

**Violation Information**

1. Failed to ensure that the Facility is operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher [30 TEX. ADMIN. CODE §§ 30.350(j) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010140001, Other Requirements No. 1].
2. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained [30 TEX. ADMIN. CODE §§ 305.125(1) and (5), 317.3(e)(5), and TPDES Permit No. WQ0010140001, Operational Requirements No. 1].
3. Failed to submit a complete annual sludge report ("ASR") to the TCEQ by September 30th of each year [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010140001, Sludge Provisions, Section III.G.7].
4. Caused, suffered, allowed, or permitted the unauthorized storage, processing, removal, or disposal of any solid waste [30 TEX. ADMIN. CODE § 330.7(a)].
5. Failed to properly record monitoring activities during effluent sampling [30 TEX. ADMIN. CODE §§ 305.125(1), (5), and 11(C) and 319.7(a) and (c), and TPDES Permit No. WQ0010140001, Monitoring and Reporting Requirements No. 3.c].
6. Failed to indicate an increased frequency of sampling on the self-reported discharge monitoring report ("DMR") [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(e) and TPDES Permit No. WQ0010140001, Effluent Limitations and Monitoring Requirements No. 3 and Monitoring and Reporting Requirements Nos. 1 and 4].
7. Failed to monitor, on a regular basis, each parameter included in its permit, which is also included on its commission monthly effluent report form [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0010140001, Effluent Limitations and Monitoring Requirements No.1 and Monitoring and Reporting Requirements Nos. 1 and 2].
8. Failed to assure the quality of all measurements through the use of blanks, standards, duplicates, and spikes [30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, and 319.9(d) and TPDES Permit No. WQ0010140001, Monitoring and Reporting Requirements No. 2.a].
9. Failed to inspect the Facility five times per week by a certified operator and maintain at the Facility a record of these inspections [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010140001, Other Requirements No. 3].
10. Failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0010140001, Permit Conditions No. 2.d].

**City of Agua Dulce**  
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**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. By October 2, 2019, removed and properly disposed of the sludge from the railroad ditch by applying it to the Facility's sludge drying beds, and cleaned the railroad ditch.
2. By November 11, 2019:
  - a. Increased the number of days the Facility is operated by the licensed chief operator to a minimum of five days per week;
  - b. Began accurately monitoring for *Escherichia coli*;
  - c. Began verifying the colorimeter, performing standards and duplicates for dissolved oxygen, and utilizing a contract laboratory to measure pH onsite; and
  - d. Began maintaining records of Facility inspections.
3. By December 13, 2019:
  - a. Restricted the unlicensed operators from performing process control and operational duties; and
  - b. Ceased the increased monitoring frequency of pH.
4. By December 27, 2019:
  - a. Submitted a revised 2019 ASR naming the correct sludge transporter; and
  - b. Implemented procedures to ensure records of monitoring activities are properly maintained, including identity of the individual collecting samples.
5. By January 2, 2020:
  - a. Equipped the County Road 103 Lift Station and Hearne Street Lift Station with functioning audio-visual alarms; and
  - b. Ensured a transporter with the required registration to transport sewage sludge is utilized.

**Technical Requirements:**

None

**Litigation Information**

**Settlement Date:** January 17, 2023

**Contact Information**

**TCEQ Attorneys:** Tracy Chandler, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Katy Montgomery, Enforcement Division, (210) 403-4016

**TCEQ Regional Contact:** Melanie Edwards, Corpus Christi Regional Office, (361) 881-6900

**Respondent Contact:** The Honorable John Howard, Mayor, City of Agua Dulce, P.O. Box 297, Agua Dulce, Texas 78330

**Respondent's Attorney:** Hal George, Suite 431 Kleberg Bank Building, 5350 South Staples Street, Corpus Christi, Texas 78411

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# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

## TCEQ

<b>DATES</b>	<b>Assigned</b>	2-Dec-2019	<b>Screening</b>	12-Dec-2019	<b>EPA Due</b>	
	<b>PCW</b>	23-Nov-2021				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Agua Dulce				
<b>Reg. Ent. Ref. No.</b>	RN101720993				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Minor		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	58764	<b>No. of Violations</b>	10
<b>Docket No.</b>	2020-0179-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Steven Van Landingham
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$48,000</b>
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>-10.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>-\$4,800</b>
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<b>Notes</b>	Reduction for High Performer classification.
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<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$8,136</b>
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$44	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$7,875	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$35,064</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b> Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$35,064</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$35,064</b>
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<b>DEFERRAL</b>	Reduction Adjustment	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$35,064</b>
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**Screening Date** 12-Dec-2019

**Docket No.** 2020-0179-MLM-E

**PCW**

**Respondent** City of Agua Dulce

*Policy Revision 4 (April 2014)*

**Case ID No.** 58764

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN101720993

**Media** Water Quality

**Enf. Coordinator** Steven Van Landingham

### Compliance History Worksheet

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

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

**>> Compliance History Summary**

**Compliance History Notes**

Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 30.350(j) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010140001, Other Requirements No. 1

**Violation Description** Failed to ensure that the Facility is operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher. Specifically, the licensed chief operator was only onsite at the Facility two to three days per week.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 3      71 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$11,250

Three monthly events are recommended from the investigation date (October 2, 2019) to the screening date (December 12, 2019).

**Good Faith Efforts to Comply**

10.0%

Reduction \$1,125

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		

**Notes** The Respondent achieved compliance on December 13, 2019.

**Violation Subtotal** \$10,125

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$3

**Violation Final Penalty Total** \$9,000

**This violation Final Assessed Penalty (adjusted for limits)** \$9,000

# Economic Benefit Worksheet

**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**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	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$50	2-Oct-2019	13-Dec-2019	0.20	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	2-Oct-2019	11-Nov-2019	0.11	\$3	n/a	\$3

**Notes for DELAYED costs**

The Training/Sampling cost is the estimated cost to restrict the unlicensed operators from performing process control and operational duties at the Facility. Date required is the investigation date. Final date is the compliance date.

The Other cost is the estimated cost to increase the number of days the Facility is operated by the licensed chief operator to a minimum of five days per week. Date required is the investigation date. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$550

**TOTAL**

\$3



**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1) and (5), 317.3(e)(5), and TPDES Permit No. WQ0010140001, Operational Requirements No. 1

**Violation Description** Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the County Road 103 Lift Station and Hearn Street Lift Station were not equipped with functioning audio-visual alarms.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes** Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

Three monthly events are recommended from the investigation date (October 2, 2019) to the screening date (December 12, 2019).

**Good Faith Efforts to Comply**

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

**Notes** The Respondent achieved compliance on January 2, 2020.

**Violation Subtotal**

**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 Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$1,000	2-Oct-2019	2-Jan-2020	0.25	\$1	\$17	\$18
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
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 equip the County Road 103 Lift Station and Hearne Street Lift Station with functioning audio-visual alarms. Date required is the investigation date. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs</b>				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$18

**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010140001, Sludge Provisions, Section III.G.7

**Violation Description**

Failed to submit a complete annual sludge report ("ASR") to the TCEQ by September 30th of each year. Specifically, the 2019 ASR did not name the correct sludge transporter.

**Base Penalty** \$25,000

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

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

**Percent** 0.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
			x

**Percent** 1.0%

**Matrix Notes**

Less than 30% of the permit requirement was not met.

**Adjustment** \$24,750

\$250

**Violation Events**

Number of Violation Events 1 73 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$250

One single event is recommended.

**Good Faith Efforts to Comply**

10.0%

**Reduction** \$25

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

**Notes** The Respondent achieved compliance on December 27, 2019.

**Violation Subtotal** \$225

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$200

**This violation Final Assessed Penalty (adjusted for limits)** \$200

## Economic Benefit Worksheet

**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
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)	\$25	30-Sep-2019	27-Dec-2019	0.24	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to submit a revised 2019 ASR to name the correct sludge transporter. Date required is the date the ASR was due. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$25

**TOTAL** \$0

**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Caused, suffered, allowed, or permitted the unauthorized storage, processing, removal, disposal of any solid waste. Specifically, sewage sludge was transported from the Facility to El Centro Landfill on February 5, 2019 and July 15, 2019 by an unauthorized transporter.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
Potential	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

Two single events are recommended, one for each transport.

**Good Faith Efforts to Comply**

Reduction

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

**Violation Subtotal**

**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 Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
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)	\$50	5-Feb-2019	2-Jan-2020	0.91	\$2	n/a	\$2

#### Notes for DELAYED costs

Estimated cost to ensure a transporter with the required registration to transport sewage sludge is utilized. Date required is the first date an unregistered transporter was used. Final date is the compliance date.

### Avoided Costs

#### ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

**TOTAL**

\$2

**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1), (5), and 11(C) and 319.7(a) and (c), and TPDES Permit No. WQ0010140001, Monitoring and Reporting Requirements No. 3.c

**Violation Description** Failed to properly record monitoring activities during effluent sampling. Specifically, the identity of the individual who collected the sample or made the measurement was not recorded for the pH, dissolved oxygen, and the total chlorine residual samples.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>

Less than 30% of the rule requirements were not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

Notes: The Respondent achieved compliance on December 27, 2019.

**Violation Subtotal**

**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 Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	2-Oct-2019	27-Dec-2019	0.24	\$3	n/a	\$3
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 implement procedures to ensure records of monitoring activities are properly maintained, including the identity of the individual collecting the samples. Date required is the investigation date. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$250

**TOTAL**

\$3



**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number**

**Rule Cite(s)**  
 30 Tex. Admin. Code §§ 305.125(1) and 319.5(e) and TPDES Permit No. WQ0010140001, Effluent Limitations and Monitoring Requirements No. 3 and Monitoring and Reporting Requirements Nos. 1 and 4

**Violation Description**  
 Failed to indicate an increased frequency of sampling on the self-reported discharge monitoring report ("DMR"). Specifically, increased frequency of monitoring occurred for pH, but was not indicated on DMRs.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="1.0%"/>

**Matrix Notes**  
 Less than 30% of the rule requirements were not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

**Notes**  
 The Respondent achieved compliance on December 13, 2019.

**Violation Subtotal**

**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 Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	2-Oct-2019	13-Dec-2019	0.20	\$2	n/a	\$2
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 cease the increased monitoring frequency of pH. Date required is the investigation date.  
Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

**TOTAL**

\$2

**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 7

**Rule Cite(s)** 30 Tex. Admin Code §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0010140001, Effluent Monitoring Requirements No. 1 and Monitoring and Reporting Requirements Nos. 1 and 2

**Violation Description** Failed to monitor, on a regular basis, each parameter included in its permit which is also included on its commission monthly effluent report form. Specifically, Respondent was monitoring for fecal coliform once per week instead of E. coli and reporting the fecal coliform results for the E. coli parameter on the September 2018 through September 2019 DMRs.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes** Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 12      365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$15,000

Twelve single events are recommended, one for each monitoring period.

**Good Faith Efforts to Comply**

25.0%

Reduction \$3,750

Before NOE/NOV    NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		

**Notes** The Respondent achieved compliance on November 11, 2019.

**Violation Subtotal** \$11,250

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$14

**Violation Final Penalty Total** \$9,750

**This violation Final Assessed Penalty (adjusted for limits)** \$9,750

## Economic Benefit Worksheet

**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 7

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	30-Sep-2018	11-Nov-2019	1.12	\$14	n/a	\$14
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 accurately monitor for E. coli. Date required is last day of the initial monitoring period of incorrect monitoring for E. coli. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250
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**TOTAL**

\$14
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**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 8

**Rule Cite(s)** 30 Tex. Admin. Code §§ 305.125(1), 319.6, and 319.9(d), and TPDES Permit No. WQ0010140001, Monitoring and Reporting Requirements No. 2.a

**Violation Description**

Failed to assure the quality of all measurements through the use of blanks, standards, duplicates, and spikes. Specifically, quality was not assured for pH (bracketing with buffer solutions), dissolved oxygen (standard and duplicate), and total chlorine residual (standard and duplicate).

**Base Penalty** \$25,000

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

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				3.0%
Potential			x	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$24,250

\$750

**Violation Events**

Number of Violation Events 3 40 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,250

Three single events are recommended, one for each parameter.

**Good Faith Efforts to Comply**

25.0%

Reduction \$562

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		

Notes

The Respondent achieved compliance on November 11, 2019.

**Violation Subtotal** \$1,688

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$1,463

**This violation Final Assessed Penalty (adjusted for limits)** \$1,463

## Economic Benefit Worksheet

**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 8

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
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)	\$250	2-Oct-2019	11-Nov-2019	0.11	\$1	n/a	\$1

**Notes for DELAYED costs**

Estimated cost to begin verifying the colorimeter, perform standards and duplicates for dissolved oxygen, and utilize a contract laboratory to measure pH onsite. Date required is the investigation date. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$250

**TOTAL**

\$1

**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number**

**Rule Cite(s)**

**Violation Description**

Failed to inspect the Facility five times per week by a certified operator and maintain at the Facility a record of these inspections. Specifically, the certified operator was only onsite two to three times per week and did not maintain records of inspections.

**Base Penalty**

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

**OR**

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

**Percent**

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

100% of the permit requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>

Notes

**Violation Subtotal**

**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 Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 9

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	2-Oct-2019	11-Nov-2019	0.11	\$1	n/a	\$1
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 begin maintaining records of Facility inspections. Date required is the investigation date.  
Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

**TOTAL** \$1



**Screening Date** 12-Dec-2019  
**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Enf. Coordinator** Steven Van Landingham

**Docket No.** 2020-0179-MLM-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 10

**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010140001, Permit Conditions No. 2.d

**Violation Description**

Failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, a large accumulation of sludge was observed in the railroad ditch around the Outfall No. 001 discharge pipe. Sample results indicated elevated levels of ammonia nitrogen (20.7 milligrams per liter ("mg/L")), ortho phosphates (18.1 mg/L), total phosphates (18.0 mg/L), and total kjeldahl nitrogen (24.9 mg/L).

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual		x	
Potential					

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1 1 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$3,750

One monthly event is recommended.

**Good Faith Efforts to Comply**

25.0% Reduction \$937

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

**Notes** The Respondent achieved compliance on October 2, 2019.

**Violation Subtotal** \$2,813

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$2,438

**This violation Final Assessed Penalty (adjusted for limits)** \$2,438

## Economic Benefit Worksheet

**Respondent** City of Agua Dulce  
**Case ID No.** 58764  
**Reg. Ent. Reference No.** RN101720993  
**Media** Water Quality  
**Violation No.** 10

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
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	\$5,000	2-Oct-2019	2-Oct-2019	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 remove and properly dispose of the sludge from the railroad ditch by applying it to the Facility's sludge drying beds, and clean the railroad ditch. Date required is the investigation date. Final date is the compliance date.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$5,000

**TOTAL** \$0



# Compliance History Report

Compliance History Report for CN600704134, RN101720993, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600704134, City of Agua Dulce	<b>Classification:</b>	HIGH	<b>Rating:</b>	0.07
<b>Regulated Entity:</b>	RN101720993, CITY OF AGUA DULCE	<b>Classification:</b>	HIGH	<b>Rating:</b>	0.00
<b>Complexity Points:</b>	7	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	08 - Sewage Treatment Facilities				
<b>Location:</b>	Approximately 450 feet southeast of the intersection of State Highway 44 East and Farm-to-Market Road 70 in Nueces County, Texas				
<b>TCEQ Region:</b>	REGION 14 - CORPUS CHRISTI				
<b>ID Number(s):</b>					
<b>WASTEWATER PERMIT</b>	WQ0010140001	<b>WASTEWATER EPA ID</b>	TX0033367		
<b>WASTEWATER LICENSING LICENSE</b>	WQ0010140001				
<b>Compliance History Period:</b>	September 01, 2015 to August 31, 2020	<b>Rating Year:</b>	2020	<b>Rating Date:</b>	09/01/2020
<b>Date Compliance History Report Prepared:</b>	October 22, 2020				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	October 22, 2015 to October 22, 2020				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Herbert Darling			<b>Phone:</b>	(512) 239-2520

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 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  |

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1	November 03, 2015	(1296952)
Item 2	November 30, 2015	(1302402)
Item 3	January 06, 2016	(1316135)
Item 4	January 07, 2016	(1309338)
Item 5	February 25, 2016	(1325506)
Item 6	March 25, 2016	(1332245)
Item 7	April 20, 2016	(1339400)
Item 8	May 26, 2016	(1346211)
Item 9	September 27, 2016	(1372737)
Item 10	October 25, 2016	(1378912)
Item 11	November 21, 2016	(1384875)
Item 12	December 19, 2016	(1391010)
Item 13	February 17, 2017	(1397629)

Item 14	March 16, 2017	(1411612)
Item 15	April 17, 2017	(1418108)
Item 16	May 09, 2017	(1425702)
Item 17	June 18, 2017	(1431738)
Item 18	July 12, 2017	(1440321)
Item 19	August 14, 2017	(1444002)
Item 20	September 15, 2017	(1450606)
Item 21	October 06, 2017	(1456463)
Item 22	November 13, 2017	(1461930)
Item 23	December 11, 2017	(1468315)
Item 24	January 10, 2018	(1475011)
Item 25	February 11, 2018	(1487231)
Item 26	March 11, 2018	(1490903)
Item 27	April 10, 2018	(1494150)
Item 28	May 07, 2018	(1501100)
Item 29	June 11, 2018	(1508187)
Item 30	July 09, 2018	(1514519)
Item 31	September 03, 2018	(1520572)
Item 32	September 11, 2018	(1527741)
Item 33	October 08, 2018	(1534100)
Item 34	November 11, 2018	(1541932)
Item 35	December 07, 2018	(1545705)
Item 36	January 09, 2019	(1561114)
Item 37	February 11, 2019	(1561112)
Item 38	March 10, 2019	(1561113)
Item 39	April 18, 2019	(1572302)
Item 40	May 15, 2019	(1584213)
Item 41	June 10, 2019	(1584214)
Item 42	July 10, 2019	(1593642)
Item 43	September 10, 2019	(1606873)
Item 44	September 23, 2019	(1599970)
Item 45	October 08, 2019	(1613716)
Item 46	November 13, 2019	(1619530)
Item 47	December 12, 2019	(1626882)
Item 48	January 12, 2020	(1634523)
Item 49	February 11, 2020	(1641138)
Item 50	March 13, 2020	(1647655)
Item 51	April 14, 2020	(1654001)
Item 52	May 14, 2020	(1660577)
Item 53	June 09, 2020	(1667094)
Item 54	July 15, 2020	(1674042)
Item 55	September 07, 2020	(1680820)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**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:**

*Compliance History Report for CN600704134, RN101720993, Rating Year 2020 which includes Compliance History (CH) components from October 22, 2015, through October 22, 2020. Ratings are pending Mass Classification.*

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT  
ACTION CONCERNING  
CITY OF AGUA DULCE;  
RN101720993

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER

DOCKET NO. 2020-0179-MLM-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Agua Dulce ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 37 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by attorney Hal George, together stipulate that:

1. Respondent owns and operates a wastewater treatment facility located approximately 450 feet southeast of the intersection of State Highway 44 East and Farm-to-Market Road 70 in Nueces County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5). The Facility contains and/or involves the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 26 and 37, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of thirty-five thousand sixty-four dollars (\$35,064.00) is assessed by the Commission in settlement of the violations alleged in Section II. The Revenue Operations Section of TCEQ's Financial Administration Division reviewed the financial documentation submitted by Respondent and determined that Respondent is unable to pay all or part of the penalty and qualifies for a deferral of all or part of the penalty under TEX. WATER CODE § 7.034. Therefore, thirty-five thousand sixty-four dollars (\$35,064.00) of the penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions contained in this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
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 Respondent has not complied with one or more of the terms or conditions contained in this Order.

7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. By October 2, 2019, removed and properly disposed of the sludge from the railroad ditch by applying it to the Facility's sludge drying beds, and cleaned the railroad ditch (Allegation 1.j.).
  - b. By November 11, 2019:
    - i. Increased the number of days the Facility is operated by the licensed chief operator to a minimum of five days per week (Allegation 1.a.);
    - ii. Began accurately monitoring for *Escherichia coli* ("*E. coli*") (Allegation 1.g.);
    - iii. Began verifying the colorimeter, performing standards and duplicates for dissolved oxygen, and utilizing a contract laboratory to measure pH onsite (Allegation 1.h.); and
    - iv. Began maintaining records of Facility inspections (Allegation 1.i.).
  - c. By December 13, 2019:
    - i. Restricted the unlicensed operators from performing process control and operational duties (Allegation 1.a.); and
    - ii. Ceased the increased monitoring frequency of pH (Allegation 1.f.).
  - d. By December 27, 2019:
    - i. Submitted a revised 2019 annual sludge report ("ASR") naming the correct sludge transporter (Allegation 1.c.); and
    - ii. Implemented procedures to ensure records of monitoring activities are properly maintained, including the identity of the individual collecting samples (Allegation 1.e.).
  - e. By January 2, 2020:
    - i. Equipped the County Road 103 Lift Station and Hearne Street Lift Station with functioning audio-visual alarms (Allegation 1.b.); and
    - ii. Ensured a transporter with the required registration to transport sewage sludge is utilized (Allegation 1.d.).

## II. ALLEGATIONS

1. During an investigation commenced on October 2, 2019, an investigator documented that Respondent:
  - a. Failed to ensure that the Facility is operated a minimum of five days per week by a licensed chief operator or operator holding the required level of license or higher, in violation of 30 TEX. ADMIN. CODE §§ 30.350(j) and 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010140001, Other Requirements No. 1. Specifically, the licensed chief operator was only onsite at the Facility two to three days per week;

- b. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (5), 317.3(e)(5), and TPDES Permit No. WQ0010140001, Operational Requirements No. 1. Specifically, the County Road 103 Lift Station and Hearn Street Lift Station were not equipped with functioning audio-visual alarms;
- c. Failed to submit a complete ASR to the TCEQ by September 30th of each year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010140001, Sludge Provisions, Section III.G.7. Specifically, the 2019 ASR did not name the correct sludge transporter;
- d. Caused, suffered, allowed, or permitted the unauthorized storage, processing, removal, or disposal of any solid waste, in violation of 30 TEX. ADMIN. CODE 330.7(a). Specifically, sewage sludge was transported from the Facility to El Centro Landfill on February 5, 2019, and July 15, 2019, by an unauthorized transporter;
- e. Failed to properly record monitoring activities during effluent sampling, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), (5), and 11(C) and 319.7(a) and (c), and TPDES Permit No. WQ0010140001, Monitoring and Reporting Requirements No. 3.c. Specifically, the identity of the individual who collected the sample or made the measurement was not recorded for the pH, dissolved oxygen, and total chlorine residual samples;
- f. Failed to indicate an increased frequency of sampling on the self-reported discharge monitoring report (“DMR”), in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(e) and TPDES Permit No. WQ0010140001, Effluent Limitations and Monitoring Requirements No. 3 and Monitoring and Reporting Requirements Nos. 1 and 4. Specifically, increased frequency of monitoring occurred for pH, but was not indicated on DMRs;
- g. Failed to monitor, on a regular basis, each parameter included in its permit, which is also included on its commission monthly effluent report form, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4 and TPDES Permit No. WQ0010140001, Effluent Limitations and Monitoring Requirements No. 1 and Monitoring and Reporting Requirements Nos. 1 and 2. Specifically, Respondent was monitoring for fecal coliform instead of *E. coli* and reporting the fecal coliform results for the *E. coli* parameter on the September 2018 through September 2019 DMRs;
- h. Failed to assure the quality of all measurements through the use of blanks, standards, duplicates, and spikes, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1), 319.6, and 319.9(d) and TPDES Permit No. WQ0010140001, Monitoring and Reporting Requirements No. 2.a. Specifically, quality was not assured for pH (bracketing with buffer solutions), dissolved oxygen (standard and duplicate), and total chlorine residual (standard and duplicate);
- i. Failed to inspect the Facility five times per week by a certified operator and maintain at the Facility a record of these inspections, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010140001, Other Requirements No. 3. Specifically, the certified operator was only onsite two to three times per week and did not maintain records of inspections; and
- j. Failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1) and (4), and TPDES Permit No. WQ0010140001, Permit Conditions No. 2.d. Specifically, a large accumulation of sludge was observed in the railroad ditch around the Outfall No. 001 discharge pipe. Sample results indicated elevated levels of ammonia



nitrogen (20.7 milligrams per liter (“mg/L”)), ortho phosphates (18.1 mg/L), total phosphates (18.0 mg/L), and total kjeldahl nitrogen (24.9 mg/L).

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent’s compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation “Re: City of Agua Dulce, Docket No. 2020-0179-MLM-E” to:

Financial Administration Division  
Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier’s Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ’s jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format (“pdf”), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term “signature” shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
Date



\_\_\_\_\_  
03/13/23

\_\_\_\_\_  
For the Executive Director

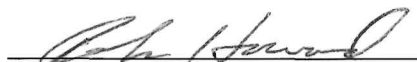
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature - The Honorable John Howard, Mayor  
City of Agua Dulce  
P.O. Box 297  
Agua Dulce, Texas 78330

\_\_\_\_\_  
1-17-2023  
Date

*If mailing address has changed, please check this box and provide the new address below:*

\_\_\_\_\_