

**Executive Summary – Enforcement Matter – Case No. 59755**

**City of Merkel**

**RN103184800**

**Docket No. 2020-1126-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Merkel MWD, located approximately 2,500 feet north and 3,800 feet east of the intersection of IH-20 and Farm-to-Market Road 126, Taylor County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 13, 2022

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$51,562

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

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$51,562

Name of SEP: WWTP Improvements (Compliance)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** June 18, 2020

**Date(s) of NOE(s):** August 27, 2020

**Executive Summary – Enforcement Matter – Case No. 59755**  
**City of Merkel**  
**RN103184800**  
**Docket No. 2020-1126-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for total suspended solids, dissolved oxygen, *Escherichia coli*, and biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010786002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010786002, 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.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Deanna Dunseith, Enforcement Division, MC 219, (512) 239-2610; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Betty Sanders, SEP Coordinator, Litigation Division, MC 175, (512) 239-3992

**Respondent:** The Honorable Mary Schramper, Mayor, City of Merkel, 100 Kent, Merkel, Texas 79536

Steve Campbell, City Manager, City of Merkel, 100 Kent, Merkel, Texas 79536

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	31-Aug-2020	<b>Screening</b>	31-Aug-2020	<b>EPA Due</b>	
	<b>PCW</b>	1-Sep-2020				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Merkel
<b>Reg. Ent. Ref. No.</b>	RN103184800
<b>Facility/Site Region</b>	3-Abilene
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	59755	<b>No. of Violations</b>	2
<b>Docket No.</b>	2020-1126-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Alyssa Loveday
		<b>EC's Team</b>	Enforcement Team 1
<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>	\$31,250
---	-------------------	----------

### 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>	65.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$20,312
---------------------------	------------------	--------------------------------	----------

Notes: Enhancement for nine months of self-reported effluent violations and one order containing a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$2,414  
 Estimated Cost of Compliance: \$25,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$51,562
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$51,562
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$51,562
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
-----------------	------	-----------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$51,562
------------------------	----------

**Screening Date** 31-Aug-2020

**Docket No.** 2020-1126-MWD-E

**PCW**

**Respondent** City of Merkel

*Policy Revision 4 (April 2014)*

**Case ID No.** 59755

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN103184800

**Media** Water Quality

**Enf. Coordinator** Alyssa Loveday

### 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> )	9	45%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <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)** 65%

#### >> Repeat Violator (Subtotal 3)

No

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

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

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for nine months of self-reported effluent violations and one order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 65%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 65%

Screening Date 31-Aug-2020

Docket No. 2020-1126-MWD-E

PCW

Respondent City of Merkel

Policy Revision 4 (April 2014)

Case ID No. 59755

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103184800

Media Water Quality

Enf. Coordinator Alyssa Loveday

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010786002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	x			30.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. Dissolved oxygen and Escherichia coli were also considered. Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 4 122 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$30,000

Four monthly events are recommended for the months of December 2019 and January, February, and March 2020.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Extraordinary		
Ordinary		
N/A	x	

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$30,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,414

Violation Final Penalty Total \$49,500

This violation Final Assessed Penalty (adjusted for limits) \$49,500

# Economic Benefit Worksheet

**Respondent** City of Merkel  
**Case ID No.** 59755  
**Reg. Ent. Reference No.** RN103184800  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$25,000	30-Nov-2019	4-Nov-2021	1.93	\$2,414	n/a	\$2,414

**Notes for DELAYED costs**

Estimated other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance and the Final Date is the estimated date of compliance.

### 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 \$25,000

**TOTAL** \$2,414

**Screening Date** 31-Aug-2020  
**Respondent** City of Merkel  
**Case ID No.** 59755  
**Reg. Ent. Reference No.** RN103184800  
**Media** Water Quality  
**Enf. Coordinator** Alyssa Loveday

**Docket No.** 2020-1126-MWD-E

**PCW**

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

**Violation Number** 2

**Rule Cite(s)**  
 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010786002, Effluent Limitations and Monitoring Requirements No. 1

**Violation Description**  
 Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

**Base Penalty** \$25,000

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

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

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes**  
 Human health or the environment has been exposed to insignificant amounts of pollutants that do 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 1      30 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended for the quarter containing the month of November 2019.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

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

**Notes**  
 The Respondent does not meet the good faith criteria for this violation.

**Violation Subtotal** \$1,250

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

**Statutory Limit Test**

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$2,063

**This violation Final Assessed Penalty (adjusted for limits)** \$2,063

# Economic Benefit Worksheet

**Respondent** City of Merkel  
**Case ID No.** 59755  
**Reg. Ent. Reference No.** RN103184800  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See Economic Benefit Worksheet for Violation No. 1.

### 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

**TOTAL**



City of Merkel  
 TPDES Permit No. WQ0010786002  
 Docket No. 2020-1126-MWD-E  
 Case No. 59755

Effluent Violation Table							
Monitoring Period	Biochemical Oxygen Demand (5-day)			<i>Escherichia coli</i>		Dissolved Oxygen	TSS
	Daily Avg. Conc. Limit = 30 mg/L	Single Grab Conc. Limit = 100 mg/L	Daily Avg. Loading Limit = 80 lbs/day	Daily Avg. Conc. Limit = 126 CFU/100 ml	Single Grab Conc. Limit = 399 CFU/100 ml	Monthly Minimum Conc. Limit = 4.0 mg/L	Daily Avg. Conc. Limit = 90 mg/L
November 2019	c	c	c	c	c	c	95.93
December 2019	102.48	142	95.9	c	c	c	c
January 2020	134.4	150	117.61	c	c	c	c
February 2020	90.53	121	c	146.62	435	c	c
March 2020	96.43	155	167.69	c	c	2.0	c

mg/L = milligrams per liter

Avg. = average

Conc. = concentration

CFU/100 ml = colony-forming units per 100 milliliters

c = compliant

lbs/day = pounds per day

TSS = total suspended solids

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN600242721, RN103184800, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

**Customer, Respondent, or Owner/Operator:** CN600242721, City of Merkel **Classification:** SATISFACTORY **Rating:** 5.23  
**Regulated Entity:** RN103184800, CITY OF MERKEL **Classification:** SATISFACTORY **Rating:** 6.11  
**Complexity Points:** 6 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** Located approximately 2,500 feet north and 3,800 feet east of the intersection of Interstate Highway 20 and Farm-to-Market Road 126, in Taylor County, Texas  
**TCEQ Region:** REGION 03 - ABILENE

## ID Number(s):

**WASTEWATER PERMIT** WQ0010786002

**WASTEWATER EPA ID** TX0111341

**WASTEWATER AUTHORIZATION** R10786002

**Compliance History Period:** September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

**Date Compliance History Report Prepared:** August 31, 2020

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 31, 2015 to August 31, 2020

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Alyssa Loveday

**Phone:** (512) 239-5504

## 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:

1 Effective Date: 09/26/2015 ADMINORDER 2015-0377-MWD-E (1660 Order-Agreed Order With Denial)

Classification: Minor

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

30 TAC Chapter 305, SubChapter F 305.125(9)

Rqmt Prov: Monitoring and Reporting Requirements PERMIT

Description: Failed to submit noncompliance notification for effluent violations that deviated from the permitted effluent limits by more than 40% within five days of becoming aware of the noncompliance. Specifically, the daily average limit for total suspended solids is 90 milligrams per liter mg/L; the reported daily average for TSS for the month of July 2014 was 130.98 mg/L.

Classification: Minor

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

30 TAC Chapter 305, SubChapter F 305.125(5)

Rqmt Prov: Operational Requirements PERMIT

Description: Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, cattails and small trees were growing along the stabilization pond embankment.

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

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

Item 1	September 24, 2015	(1291880)
Item 2	October 12, 2015	(1298054)
Item 3	November 19, 2015	(1303503)
Item 4	January 21, 2016	(1317254)
Item 5	June 26, 2017	(1432869)
Item 6	September 20, 2017	(1451682)
Item 7	October 18, 2017	(1457566)
Item 8	December 14, 2017	(1463000)
Item 9	February 14, 2018	(1488302)
Item 10	November 13, 2019	(1620617)
Item 11	December 04, 2019	(1612021)

**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.

1	Date: 08/31/2019 (1607961)		
	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		
2	Date: 09/30/2019 (1614828)		
	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		
3	Date: 11/30/2019 (1627965)		
	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		
4	Date: 12/31/2019 (1635593)		
	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		
5	Date: 01/31/2020 (1642209)		
	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		
6	Date: 02/29/2020 (1648721)		
	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		
7	Date: 03/31/2020 (1655075)		
	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		
8	Date: 04/30/2020 (1661635)		
	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		

9 Date: 05/31/2020 (1668171)  
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



- 9 Date: 08/31/2016 (1373880) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 10 Date: 09/30/2016 (1380031) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 11 Date: 10/31/2016 (1385986) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 12 Date: 11/30/2016 (1392139) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 13 Date: 12/31/2016 (1398743) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 14 Date: 01/31/2017 (1405643) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 15 Date: 02/28/2017 (1412724) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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
- 16 Date: 03/03/2017 (1394469) Classification: Moderate  
 Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
 Monitoring and Reporting Requirements PERMIT  
 Description: Failure to provide proper noncompliance notification for deviating from a permit  
 limit by more than 40%.  
 Classification: Moderate  
 Self Report? NO For Informational Purposes Only  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Sludge Provisions PERMIT  
 Description: Failure to submit the Annual Sludge Report for 2015-2016 by September 30,  
 2016.

			Classification: Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Requirements PERMIT		
Description:	Failure to properly maintain records for pH monitoring activities.		
			Classification: Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Standard Permit Conditions PERMIT		
Description:	Failure to correctly calculate all permit effluent parameters being reported on the DMRs.		
			Classification: Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Requirements PERMIT		
Description:	Failure to properly calibrate the flow meter.		
			Classification: Moderate
Self Report?	NO	For Informational Purposes Only	
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)(1) 30 TAC Chapter 305, SubChapter F 305.125(1) Permit Conditions PERMIT		
Description:	Failure to prevent an unauthorized discharge of wastewater into or adjacent to waters of the State of Texas.		
17	Date: 03/31/2017	(1441431)	Classification: Moderate
			Classification: Moderate
Self Report?	YES	For Informational Purposes Only	
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		
18	Date: 04/30/2017	(1426871)	Classification: Moderate
			Classification: Moderate
Self Report?	YES	For Informational Purposes Only	
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		
19	Date: 06/30/2017	(1441432)	Classification: Moderate
			Classification: Moderate
Self Report?	YES	For Informational Purposes Only	
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		
20	Date: 07/31/2017	(1445103)	Classification: Moderate
			Classification: Moderate
Self Report?	YES	For Informational Purposes Only	
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		
21	Date: 11/30/2017	(1469432)	Classification: Moderate
			Classification: Moderate
Self Report?	YES	For Informational Purposes Only	
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		
22	Date: 12/31/2017	(1476131)	Classification: Moderate
			Classification: Moderate

Self Report? YES For Informational Purposes Only

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

23 Date: 02/28/2018 (1491970)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

24 Date: 03/31/2018 (1495262)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

25 Date: 04/30/2018 (1502190)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

26 Date: 05/31/2018 (1509305)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

27 Date: 06/30/2018 (1515621)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

28 Date: 07/31/2018 (1521662)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

29 Date: 08/31/2018 (1528850)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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

30\* Date: 09/30/2018 (1535171)

Classification: Moderate

Self Report? YES For Informational Purposes Only

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



- 31\* Date: 10/31/2018 (1543028) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 32\* Date: 11/30/2018 (1546766) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 33\* Date: 12/31/2018 (1564414) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 34\* Date: 01/31/2019 (1564412) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 35\* Date: 02/28/2019 (1564413) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 36\* Date: 03/31/2019 (1573403) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 37\* Date: 04/29/2019 (1556851) Classification: Moderate  
Self Report? NO For Informational Purposes Only  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)  
Monitoring and Reporting Requirements PERMIT  
Description: Failure to properly maintain pH records.
- 38\* Date: 04/30/2019 (1586402) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 39\* Date: 05/31/2019 (1586403) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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

- 40\* Date: 06/30/2019 (1594745) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 41\* Date: 07/31/2019 (1601047) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 42\* Date: 08/31/2019 (1607961) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 43 Date: 09/30/2019 (1614828) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 44 Date: 11/30/2019 (1627965) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 45 Date: 12/31/2019 (1635593) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 46 Date: 01/31/2020 (1642209) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 47 Date: 02/29/2020 (1648721) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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
- 48 Date: 03/31/2020 (1655075) Classification: Moderate  
Self Report? YES For Informational Purposes Only  
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  
 49 Date: 04/30/2020 (1661635) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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  
 50 Date: 05/31/2020 (1668171) Classification: Moderate  
 Self Report? YES For Informational Purposes Only  
 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

\* NOVs applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

**Appendix B**  
**All Investigations Conducted During Component Period August 31, 2015 and August 31, 2020**

	(1291880)	
Item 1*	September 24, 2015**	For Informational Purposes Only
	(1298054)	
Item 2*	October 12, 2015**	For Informational Purposes Only
	(1303503)	
Item 3*	November 19, 2015**	For Informational Purposes Only
	(1310487)	
Item 4	January 06, 2016**	For Informational Purposes Only
	(1317254)	
Item 5*	January 21, 2016**	For Informational Purposes Only
	(1326609)	
Item 6	February 25, 2016**	For Informational Purposes Only
	(1333373)	
Item 7	March 25, 2016**	For Informational Purposes Only
	(1340511)	
Item 8	April 28, 2016**	For Informational Purposes Only
	(1353734)	
Item 9	June 24, 2016**	For Informational Purposes Only
	(1347328)	
Item 10	June 28, 2016**	For Informational Purposes Only
	(1360719)	
Item 11	July 26, 2016**	For Informational Purposes Only
	(1367158)	
Item 12	August 23, 2016**	For Informational Purposes Only
	(1373880)	
Item 13	September 22, 2016**	For Informational Purposes Only
	(1380031)	
Item 14	October 28, 2016**	For Informational Purposes Only
	(1385986)	

Item 15	November 22, 2016**	For Informational Purposes Only (1392139)
Item 16	December 27, 2016**	For Informational Purposes Only (1398743)
Item 17	January 25, 2017**	For Informational Purposes Only (1405643)
Item 18	February 22, 2017**	For Informational Purposes Only (1394469)
Item 19	March 03, 2017**	For Informational Purposes Only (1412724)
Item 20	March 15, 2017**	For Informational Purposes Only (1408787)
Item 21	April 25, 2017**	For Informational Purposes Only (1426871)
Item 22	May 25, 2017**	For Informational Purposes Only (1432869)
Item 23*	June 26, 2017**	For Informational Purposes Only (1441432)
Item 24	July 25, 2017**	For Informational Purposes Only (1441431)
Item 25	August 22, 2017**	For Informational Purposes Only (1445103)
Item 26	August 23, 2017**	For Informational Purposes Only (1451682)
Item 27*	September 20, 2017**	For Informational Purposes Only (1457566)
Item 28*	October 18, 2017**	For Informational Purposes Only (1463000)
Item 29*	December 14, 2017**	For Informational Purposes Only (1469432)
Item 30	December 20, 2017**	For Informational Purposes Only (1476131)
Item 31	January 19, 2018**	For Informational Purposes Only (1488302)
Item 32*	February 14, 2018**	For Informational Purposes Only (1491970)
Item 33	March 06, 2018**	For Informational Purposes Only (1495262)
Item 34	April 19, 2018**	For Informational Purposes Only (1502190)
Item 35	May 11, 2018**	For Informational Purposes Only (1509305)
Item 36	June 19, 2018**	For Informational Purposes Only

Item 37	July 23, 2018**	(1515621) For Informational Purposes Only
Item 38	August 28, 2018**	(1521662) For Informational Purposes Only
Item 39	September 11, 2018**	(1528850) For Informational Purposes Only
Item 40	October 18, 2018**	(1535171) For Informational Purposes Only
Item 41	November 09, 2018**	(1543028) For Informational Purposes Only
Item 42	December 14, 2018**	(1546766) For Informational Purposes Only
Item 43	January 16, 2019**	(1564414) For Informational Purposes Only
Item 44	February 19, 2019**	(1564412) For Informational Purposes Only
Item 45	March 19, 2019**	(1564413) For Informational Purposes Only
Item 46	April 11, 2019**	(1573403) For Informational Purposes Only
Item 47	April 29, 2019**	(1556851) For Informational Purposes Only
Item 48	May 20, 2019**	(1586402) For Informational Purposes Only
Item 49	June 21, 2019**	(1586403) For Informational Purposes Only
Item 50	July 29, 2019**	(1594745) For Informational Purposes Only
Item 51	August 29, 2019**	(1591852) For Informational Purposes Only
Item 52	October 01, 2019	(1601047) For Informational Purposes Only
Item 53	October 10, 2019	(1614828) For Informational Purposes Only
Item 54*	November 13, 2019	(1620617) For Informational Purposes Only
Item 55*	December 04, 2019	(1612021) For Informational Purposes Only
Item 56	December 12, 2019	(1627965) For Informational Purposes Only
Item 57	January 09, 2020	(1635593) For Informational Purposes Only

Item 58	February 18, 2020	(1642209) For Informational Purposes Only
Item 59	March 10, 2020	(1648721) For Informational Purposes Only
Item 60	April 14, 2020	(1655075) For Informational Purposes Only
Item 61	May 13, 2020	(1661635) For Informational Purposes Only
Item 62	June 29, 2020	(1668171) For Informational Purposes Only
Item 63	August 25, 2020	(1657553) For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF MERKEL  
RN103184800**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2020-1126-MWD-E**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Merkel (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment facility located approximately 2,500 feet north and 3,800 feet east of the intersection of Interstate Highway 20 and Farm-to-Market Road 126 in Taylor County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on June 18, 2020, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below:

Monitoring Period	Biochemical Oxygen Demand (5-day)			<i>Escherichia coli</i>		Dissolved Oxygen	TSS
	Daily Avg. Conc. Limit = 30 mg/L	Single Grab Conc. Limit = 100 mg/L	Daily Avg. Loading Limit = 80 lbs/day	Daily Avg. Conc. Limit = 126 CFU/100 mL	Single Grab Conc. Limit = 399 CFU/100 mL	Monthly Minimum Conc. Limit = 4.0 mg/L	Daily Avg. Conc. Limit = 90 mg/L
November 2019	c	c	c	c	c	c	95.93
December 2019	102.48	142	95.9	c	c	c	c
January 2020	134.4	150	117.61	c	c	c	c
February 2020	90.53	121	c	146.62	435	c	c
March 2020	96.43	155	167.69	c	c	2.0	c

mg/L = milligrams per liter

Avg. = average

Conc. = concentration

CFU/100 mL = colony-forming units per 100 milliliters

c = compliant

lbs/day = pounds per day

TSS = total suspended solids

## II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010786002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$51,562 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$51,562 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Agreement A" – incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory



completion of all provisions of the SEP Agreement, as determined by the Executive Director.

### III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Merkel, Docket No. 2020-1126-MWD-E" to:

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

2. The Respondent shall implement and complete an SEP as set forth in Conclusion of Law No. 4. The amount of \$51,562 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date of the Executive Director demands payment.
3. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010786002, 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 include detail supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and shall 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  
Abilene Regional Office  
Texas Commission on Environmental Quality  
1977 Industrial Boulevard  
Abilene, Texas 79602-7833

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The 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.
6. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. 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 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
8. 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 in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

10. This 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 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.
11. 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.
12. 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



\_\_\_\_\_  
6/27/22

\_\_\_\_\_  
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, 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.

\_\_\_\_\_  
*Steve Campbell*  
Signature

\_\_\_\_\_  
4/19/2022  
Date

\_\_\_\_\_  
Steve Campbell  
Name (Printed or typed)  
Authorized Representative of  
City of Merkel

\_\_\_\_\_  
CITY MGR  
Title

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

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

**Attachment A**

**Docket Number: 2020-1126-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Merkel
<b>Penalty Amount:</b>	Fifty-One Thousand Five Hundred Sixty-Two Dollars (\$51,562)
<b>SEP Offset Amount:</b>	Fifty-One Thousand Five Hundred Sixty-Two Dollars (\$51,562)
<b>Type of SEP:</b>	Compliance
<b>Project Name:</b>	<i>WWTP Improvements</i>
<b>Location of SEP:</b>	Taylor County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility (the “Facility”) which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s Facility.

**1. Project Description**

**A. Project**

Respondent shall hire a contractor to remove and properly dispose of accumulated sludge from the facultative lagoon at the Facility. The sludge will be disposed at a permitted disposal site. Accumulated sludge removal will allow the Facility to more efficiently and effectively treat influent wastewater thereby reducing the biochemical oxygen demand, total suspended solids, dissolved oxygen, and Escherichia coli to permitted levels. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for one or more of the following: sludge removal and disposal (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be required prior to commencement of the SEP.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. Additional risks include occurrences of low dissolved oxygen, fish kills, algal bloom, and bacterial contamination in waterways.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

<b>Item</b>	<b>Quantity</b>	<b>Cost</b>	<b>Units</b>	<b>Total</b>
Sludge Removal/Disposal	1	\$100,000	Lump Sum	\$100,000
<b>Total</b>				<b>\$100,000</b>

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 130 days after the effective date of this Agreed Order.

**3. Records and Reporting**

**A. Progress Report**

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 130-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

**Reporting Schedule**

<b>Days from Effective Order Date</b>	<b>Information Required</b>
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
130	Notice of SEP completion

**B. Final Report**

Within 130 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
7. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to “Texas Commission on Environmental Quality,” and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**6. Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**7. Recognition**

Respondent may not seek recognition for this project in any other state or federal regulatory program.

**8. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.