

**Executive Summary – Enforcement Matter – Case No. 60031**  
**City of Wolfforth**  
**RN101917854**  
**Docket No. 2020-1435-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

City of Wolfforth WWTF, located approximately 2,600 feet southwest of the intersection of Farm-to-Market ("FM") Road 179 and FM Road 1585, and approximately three miles east of the intersection of U.S. Highway 82 and FM Road 1585, Lubbock County

**Type of Operation:**

Wastewater treatment facility and disposal site

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 16, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,875

**Amount Deferred for Expedited Settlement:** \$1,575

**Total Paid to General Revenue:** \$6,300

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

Payment Plan: N/A

**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:** October 5, 2020 through October 12, 2020

**Date(s) of NOE(s):** October 23, 2020

**Executive Summary – Enforcement Matter – Case No. 60031**  
**City of Wolfforth**  
**RN101917854**  
**Docket No. 2020-1435-MWD-E**

***Violation Information***

1. Failed to ensure the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the Facility fence was partially buried by windblown soil deposits, the fence was less than four feet in height in some locations, and some areas of the fence on the eastern side of the Facility were damaged. Additionally, the vegetation in and around three of the ponds was overgrown, examinations of the wastewater solids were not being conducted, and tires were being used as riprap in and around the last two storage ponds [30 TEX. ADMIN. CODE § 305.125(1) and (5) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010321002, Operational Requirements No. 1].
  
2. Failed to provide certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization. Specifically, the Respondent failed to provide certification for the facultative lagoon and the four stabilization ponds [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010321002, Special Provision No. 14].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. Repaired the damaged portions of the fence and removed the windblown soil deposits from the Facility fence by November 5, 2020;
  
- b. Removed and properly disposed of the overgrown vegetation in and around the ponds by November 5, 2020;
  
- c. Developed and implemented procedures and conducted employee training to examine the wastewater solids in the Facility by January 27, 2021; and
  
- d. Replaced the fencing portions to ensure the fence is at an adequate height in all locations by February 2, 2021.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 230 days:

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- i. Conduct an evaluation of the Facility by a Texas Licensed Professional Engineer in order to meet the requirements of the liner certification.
- ii. Remove and properly dispose of the tires in and around the two storage ponds and replace them with adequate riprap.
- iii. In lieu of a.i and a.ii;
  - (1) Remove and properly dispose of the tires in and around the two storage ponds.
  - (2) Decommission the ponds and lagoons.
- b. Within 245 days, submit written certification to demonstrate compliance with a.i. and a.ii.; or a.iii.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Harley Hobson, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** The Honorable Michael Wayne Wright, Mayor, City of Wolfforth, P.O. Box 36, Wolfforth, Texas 79382

**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>	26-Oct-2020	<b>Screening</b>	4-Nov-2020	<b>EPA Due</b>	
	<b>PCW</b>	19-Apr-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Wolfforth
<b>Reg. Ent. Ref. No.</b>	RN101917854
<b>Facility/Site Region</b>	2-Lubbock
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60031	<b>No. of Violations</b>	2
<b>Docket No.</b>	2020-1435-MWD-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>	Harley Hobson
		<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>\$7,500</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>5.0%</b> Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$375</b>
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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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>\$0</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	\$5,045	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$37,547	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,875</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>\$7,875</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,875</b>
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	<b>-\$1,575</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$6,300</b>
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Screening Date 4-Nov-2020

Docket No. 2020-1435-MWD-E

PCW

Respondent City of Wolfforth

Case ID No. 60031

Reg. Ent. Reference No. RN101917854

Media Water Quality

Enf. Coordinator Harley Hobson

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

### 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> )	1	5%
	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)** 5%

#### >> 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 one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 5%

Screening Date 4-Nov-2020

Docket No. 2020-1435-MWD-E

PCW

Respondent City of Wolfforth

Policy Revision 4 (April 2014)

Case ID No. 60031

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101917854

Media Water Quality

Enf. Coordinator Harley Hobson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (5) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010321002, 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 Facility fence was partially buried by windblown soil deposits, the fence was less than four feet in height in some locations, and some areas of the fence on the eastern side of the Facility were damaged. Additionally, the vegetation in and around three of the ponds was overgrown, examinations of the wastewater solids were not being conducted, and tires were being used as riprap in and around the last two storage ponds.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (5.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 1 Number of violation days 30

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$1,250

One quarterly event is recommended from the October 5, 2020 record review investigation start date to the November 4, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Effort Type (Extraordinary, Ordinary, N/A) and checkboxes.

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 \$2,525

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

## Economic Benefit Worksheet

**Respondent** City of Wolfforth  
**Case ID No.** 60031  
**Reg. Ent. Reference No.** RN101917854  
**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)	\$447	13-Feb-2020	5-Nov-2020	0.73	\$1	\$22	\$23
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	\$100	13-Feb-2020	27-Jan-2021	0.96	\$5	n/a	\$5
Remediation/Disposal	\$20,000	13-Feb-2020	8-Jul-2022	2.40	\$2,400	n/a	\$2,400
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	13-Feb-2020	2-Feb-2021	0.97	\$97	n/a	\$97

#### Notes for DELAYED costs

Actual Other Cost to repair the damaged portions of the Facility fence and clear the windblown soil deposits from the Facility fence and remove and properly dispose of the overgrown brush in and around the ponds. The date required is the initial investigation start date and the final date is the date of compliance.

Estimated Training/Sampling cost to develop and implement procedures and conduct employee training to examine the wastewater solids in the Facility. The date required is the initial investigation start date and the final date is the date of compliance.

Estimated Remediation/Disposal cost to remove and properly dispose of the tires in and around the two storage ponds and replace them with adequate riprap. The date required is the initial investigation start date and the final date is the estimated date of compliance.

Estimated Other cost to replace fencing portions to ensure the fence is adequate height in all locations. The date required is the initial investigation start date and the final date is the 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

\$22,547

**TOTAL**

\$2,525

**Screening Date** 4-Nov-2020  
**Respondent** City of Wolfforth  
**Case ID No.** 60031  
**Reg. Ent. Reference No.** RN101917854  
**Media** Water Quality  
**Enf. Coordinator** Harley Hobson

**Docket No.** 2020-1435-MWD-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 TCEQ Permit No. WQ0010321002, Special Provision No. 14

**Violation Description** Failed to provide certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization. Specifically, the Respondent failed to provide certification for the facultative lagoon and the four stabilization ponds.

**Base Penalty**

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

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	Harm			Percent
	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes:

**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**

**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"/>
N/A	<input checked="" type="text" value="X"/>	<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 Wolfforth  
**Case ID No.** 60031  
**Reg. Ent. Reference No.** RN101917854  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$15,000	13-Feb-2020	8-Jul-2022	2.40	\$120	\$2,400	\$2,520
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 Engineering/Construction cost to conduct an evaluation of the Facility by a Texas Licensed Professional Engineer in order to meet the requirements of the liner certification. The date required is the initial investigation start date 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**

\$15,000

**TOTAL**

\$2,520

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 CN600645725, RN101917854, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN600645725, City of Wolfforth **Classification:** SATISFACTORY **Rating:** 2.13  
**Regulated Entity:** RN101917854, CITY OF WOLFFORTH **Classification:** SATISFACTORY **Rating:** 3.89  
**Complexity Points:** 8 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** Approximately 2,600 feet southwest of the intersection of Farm-to-Market Road 179 and Farm-to-Market Road 1585, and approximately three miles east of the intersection of United States Highway 82 and Farm-to-Market Road 1585 in Lubbock County, Texas  
**TCEQ Region:** REGION 02 - LUBBOCK

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0010321002

**Compliance History Period:** September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

**Date Compliance History Report Prepared:** January 05, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 05, 2016 to January 05, 2021

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

**Name:** Harley Hobson

**Phone:** (512) 239-1337

## 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.):**

N/A

### **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: 04/17/2020 (1630911)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Operational Requirement 4 PERMIT  
Description: Failure to provide adequate safeguards to prevent the discharge of untreated or inadequately treated wastewater.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Operational Requirement 1 PERMIT  
Description: Failure to ensure the facility is properly operated and maintained.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 217, SubChapter C 217.59(b)(2)

30 TAC Chapter 317 317.3(a)  
 Description: Failure to ensure all lift stations are intruder resistant.  
 Self Report? NO Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Permit Conditions 2(g) PERMIT

Description: Failure to prevent an unauthorized discharge.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 217, SubChapter B 217.33(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring Requirement 5 PERMIT

Description: Failure to maintain calibration/verification records for the automatic flow measuring devices.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 A Effluent Limits PERMIT

Description: Failure to meet effluent quality limitations regarding Biochemical Oxygen Demand (BOD) and pH.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 319, SubChapter A 319.5(a)  
 B Monitoring Requirements PERMIT

Description: Failure to monitor effluent parameters at the appropriate location.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Monitoring Requirements 7c PERMIT

Description: Failure to report effluent violations which deviate from the permitted effluent limitation by more than 40%.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Special Provisions 4 PERMIT

Description: Failure to prevent ponding of effluent.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Special Provisions 8 PERMIT

Description: Failure to submit soil sample results to the Regional Office by September of each year.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Special Provisions 10 PERMIT

Description: Failure to label the irrigation system with the appropriate signs stating that the irrigation water is from a non-potable water supply.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Special Provision 14 PERMIT

Description: Failure to provide pond liner certification documents.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 217, SubChapter C 217.63(c)  
 30 TAC Chapter 317 317.3(e)(5)

Description: Failure to provide an audiovisual alarm system for all lift stations and a Supervisory Control and Data Acquisition (SCADA), auto-dialer, or telemetering system for the updated lift stations.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Special Provision 17 PERMIT

Description: Failure to submit results of the groundwater analysis to the Regional Office by September of each year.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF WOLFFORTH  
RN101917854**

**§  
§  
§  
§  
§**

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2020-1435-MWD-E**

**I. JURISDICTION AND STIPULATIONS**

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 Wolfforth (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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility and disposal site located approximately 2,600 feet southwest of the intersection of Farm-to-Market Road 179 and Farm-to-Market Road 1585, and approximately three miles east of the intersection of United States Highway 82 and Farm-to-Market Road 1585 in Lubbock 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the 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 ch. 26 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 the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$7,875 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$6,300 of the penalty and \$1,575 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, 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 the Respondent has not complied with one or more of the terms or conditions 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 compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
  - a. Repaired the damaged portions of the fence and removed the windblown soil deposits from the Facility fence by November 5, 2020;
  - b. Removed and properly disposed of the overgrown vegetation in and around the ponds by November 5, 2020;
  - c. Developed and implemented procedures and conducted employee training to examine the wastewater solids in the Facility by January 27, 2021; and
  - d. Replaced the fencing portions to ensure the fence is at an adequate height in all locations by February 2, 2021.

## **II. ALLEGATIONS**

During a record review conducted on October 5, 2020 through October 12, 2020, an investigator documented that the Respondent:

1. 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) and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0010321002, Operational Requirements No. 1. Specifically, the Facility fence was partially buried by windblown soil deposits, the fence was less than four feet in height in some locations, and some areas of the fence on the eastern side of the Facility were damaged. Additionally, the vegetation in and around three of the ponds was overgrown, examinations of the wastewater solids were not being conducted, and tires were being used as riprap in and around the last two storage ponds.

2. Failed to provide certification by a Texas Licensed Professional Engineer that the completed pond lining meets the appropriate criteria prior to utilization, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0010321002, Special Provision No. 14. Specifically, the Respondent failed to provide certification for the facultative lagoon and the four stabilization ponds.

### **III. DENIALS**

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

### **IV. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the 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 action 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 Wolfforth, Docket No. 2020-1435-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 undertake the following technical requirements:
  - a. Within 230 days after the effective date of this Order:
    - i. Conduct an evaluation of the Facility by a Texas Licensed Professional Engineer in order to meet the requirements of the liner certification.
    - ii. Remove and properly dispose of the tires in and around the two storage ponds and replace them with adequate riprap.
    - iii. In lieu of 2.a.i and 2.a.ii;
      - (1) Remove and properly dispose of the tires in and around the two storage ponds.
      - (2) Decommission the ponds and lagoons.
  - b. Within 245 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos.

2.a.i and 2.a.ii; or 2.a.iii. 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  
Lubbock Regional Office  
Texas Commission on Environmental Quality  
5012 50th Street, Suite 100  
Lubbock, Texas 79414-3426

3. All relief not expressly granted in this Order is denied.
4. 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.
5. 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.
6. 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.

7. 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.
8. 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.
9. 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



\_\_\_\_\_  
12/13/2021

\_\_\_\_\_  
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.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
06/08/21  
Date

\_\_\_\_\_  
Mike Wright  
Name (Printed or typed)  
Authorized Representative of  
City of Wolfforth

\_\_\_\_\_  
Mayor  
Title

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