

**Executive Summary – Enforcement Matter – Case No. 60129**

**City of Lufkin**

**RN101609964**

**Docket No. 2020-1536-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Unauthorized action which deprives others of water, severely affects aquatic life, or results in a safety hazard, property damage, or economic loss.

**Media:**

MWD

**Small Business:**

No

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

Hurricane Creek Plant, 3510 Southwood Drive, Lufkin, Angelina County

**Type of Operation:**

Wastewater treatment facility and associated collection system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 22, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$6,000

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

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$6,000

Name of SEP: Manhole Rehabilitation (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:** September 18, 2020 and October 27, 2020

**Date(s) of NOE(s):** November 20, 2020

**Executive Summary – Enforcement Matter – Case No. 60129**

**City of Lufkin**

**RN101609964**

**Docket No. 2020-1536-MWD-E**

***Violation Information***

Failed to properly operate and maintain the systems of collection which resulted in an unauthorized discharge of municipal waste into or adjacent to any water in the state [30 TEX. ADMIN. CODE § 305.125(1) and (5), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010214001, Permit Conditions No. 2.g and Operational Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On September 21, 2020, the Respondent ceased the unauthorized discharge, repaired the sewer tap, replaced ten feet of six-inch sewer main, repaired the manhole, disinfected Hurricane Creek with chlorinated water, and reported the unauthorized discharge to the Beaumont Regional Office.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Mark Gamble, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2587; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Adena Crider, SEP Coordinator, Litigation Division, MC 175, (512) 239-0648

**Respondent:** The Honorable Bob Brown, Mayor, City of Lufkin, P.O. Box 190, Lufkin, Texas 75902

Kevin Gee, City Manager, City of Lufkin, P.O. Box 190, Lufkin, Texas 75902

**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>	2-Nov-2020			
	<b>PCW</b>	17-Nov-2020	<b>Screening</b>	16-Nov-2020	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Lufkin				
<b>Reg. Ent. Ref. No.</b>	RN101609964				
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	60129	<b>No. of Violations</b>	1		
<b>Docket No.</b>	2020-1536-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>	Mark Gamble		
		<b>EC's Team</b>	Enforcement Team 2		
<b>Admin. Penalty \$ Limit</b>	<b>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>	\$7,500
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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>	5.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$375
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<b>Notes</b>	Enhancement for one NOV with same/similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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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>	-\$1,875
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$14	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$15,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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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>	\$6,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$6,000
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$6,000
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**Screening Date** 16-Nov-2020

**Docket No.** 2020-1536-MWD-E

**PCW**

**Respondent** City of Lufkin

*Policy Revision 4 (April 2014)*

**Case ID No.** 60129

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN101609964

**Media** Water Quality

**Enf. Coordinator** Mark Gamble

### 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** 16-Nov-2020 **Docket No.** 2020-1536-MWD-E **PCW**  
**Respondent** City of Lufkin *Policy Revision 4 (April 2014)*  
**Case ID No.** 60129 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN101609964  
**Media** Water Quality  
**Enf. Coordinator** Mark Gamble

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(1) and (5), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010214001, Permit Conditions No. 2.g and Operational Requirements No. 1  
**Violation Description** Failed to properly operate and maintain the systems of collection which resulted in an unauthorized discharge of municipal waste into or adjacent to any water in the state. Specifically, a damaged and abandoned manhole and broken sewer tap at a six-inch line behind the Chesnut Village II shopping center caused a discharge of untreated sewage into Hurricane Creek resulting in approximately 63 dead fish.

**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** 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 1 Number of violation days 7

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is calculated from the September 15, 2020 date of the earliest report of dead fish to the September 21, 2020 compliance date.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,875

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

Extraordinary		
Ordinary	x	
N/A		

**Notes** The Respondent achieved compliance by September 21, 2020.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$4 **Violation Final Penalty Total** \$6,000

**This violation Final Assessed Penalty (adjusted for limits)** \$6,000

# Economic Benefit Worksheet

**Respondent** City of Lufkin  
**Case ID No.** 60129  
**Reg. Ent. Reference No.** RN101609964  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$10,000	18-Sep-2020	21-Sep-2020	0.01	\$4	n/a	\$4

**Notes for DELAYED costs**

Estimated Remediation/Disposal cost to cease the unauthorized discharge, repair the sewer tap, replace ten feet of six-inch sewer main, repair the manhole, disinfect Hurricane Creek with chlorinated water, and reported the unauthorized discharge on September 21, 2020. The Date Required is the investigation 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 \$10,000

**TOTAL** \$4

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 CN600649115, RN101609964, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN600649115, City of Lufkin **Classification:** SATISFACTORY **Rating:** 0.43  
**Regulated Entity:** RN101609964, HURRICANE CREEK PLANT **Classification:** SATISFACTORY **Rating:** 0.50  
**Complexity Points:** 7 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** 3510 SOUTHWOOD DRIVE, LUFKIN, ANGELINA COUNTY, TEXAS 75904

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):**

**WASTEWATER LICENSING LICENSE** WQ0010214001 **PRETREATMENT EPA ID** TX0024309000  
**PRETREATMENT PERMIT** WQ0010214001 **STORMWATER PERMIT** TXR05CS74  
**WASTEWATER PERMIT** WQ0010214001 **WASTEWATER EPA ID** TX0024309

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

**Date Compliance History Report Prepared:** May 25, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 25, 2016 to May 25, 2021

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

**Name:** Mark Gamble

**Phone:** (512) 239-2587

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES  
2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	June 20, 2016	(1352414)	Item 12	May 12, 2017	(1425475)
Item 2	July 20, 2016	(1359382)			
Item 3	September 19, 2016	(1372506)	Item 13	June 16, 2017	(1431494)
Item 4	September 29, 2016	(1365812)	Item 14	July 20, 2017	(1440095)
Item 5	October 20, 2016	(1378681)	Item 15	September 20, 2017	(1443777)
Item 6	November 14, 2016	(1384647)	Item 16	October 17, 2017	(1456230)
Item 7	December 14, 2016	(1390780)	Item 17	November 20, 2017	(1461697)
Item 8	January 19, 2017	(1397398)	Item 18	December 14, 2017	(1468083)
Item 9	February 20, 2017	(1404288)	Item 19	January 20, 2018	(1474782)
Item 10	March 20, 2017	(1411380)	Item 20	February 20, 2018	(1487006)
Item 11	April 20, 2017	(1417880)			

Item 21	March 17, 2018	(1490677)	Item 39	September 17, 2019	(1606643)
Item 22	April 16, 2018	(1493929)	Item 40	October 17, 2019	(1613489)
Item 23	May 18, 2018	(1500864)	Item 41	November 18, 2019	(1619304)
Item 24	June 18, 2018	(1507959)	Item 42	December 18, 2019	(1626657)
Item 25	July 20, 2018	(1514294)	Item 43	January 17, 2020	(1634298)
Item 26	September 20, 2018	(1527516)	Item 44	February 18, 2020	(1640914)
Item 27	September 26, 2018	(1520345)	Item 45	March 19, 2020	(1647433)
Item 28	October 18, 2018	(1533873)	Item 46	April 20, 2020	(1653773)
Item 29	November 19, 2018	(1541700)	Item 47	May 19, 2020	(1660355)
Item 30	December 18, 2018	(1545478)	Item 48	June 17, 2020	(1666868)
Item 31	January 18, 2019	(1560433)	Item 49	July 20, 2020	(1673819)
Item 32	February 18, 2019	(1560431)	Item 50	September 18, 2020	(1687164)
Item 33	March 20, 2019	(1560432)	Item 51	September 30, 2020	(1680598)
Item 34	April 18, 2019	(1572078)	Item 52	October 16, 2020	(1693507)
Item 35	May 20, 2019	(1583762)	Item 53	November 17, 2020	(1713216)
Item 36	June 18, 2019	(1583763)	Item 54	December 15, 2020	(1713217)
Item 37	July 18, 2019	(1593409)	Item 55	January 19, 2021	(1713218)
Item 38	August 19, 2019	(1599744)	Item 56	April 01, 2021	(1701557)

**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:	03/12/2021	(1700456)		
	Self Report?	NO		Classification:	Moderate
	Citation:	PC 2g, Pg. 9 PERMIT			
	Description:	Failure by the City of Lufkin to prevent the unauthorized discharge of wastewater.			
	Self Report?	NO		Classification:	Moderate
	Citation:	M&RR 7(a), Pg. 7 PERMIT M&RR 7(b)(i), Pg. 7 PERMIT			
	Description:	Failure by the City of Lufkin to properly report unauthorized discharges orally or by faximile to the Regional Office within 24 hours of becoming aware and in writing within 5 working days to the Regional Office and the Enforcement Division (MC 224).			
	Self Report?	NO		Classification:	Moderate
	Citation:	OpR 1, Pg. 13 PERMIT			
	Description:	Failure by the City of Lufkin to ensure all systems of collection, treatment and disposal are properly operated and maintained.			

**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 LUFKIN  
RN101609964

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§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2020-1536-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 Lufkin (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 and associated collection system located at 3510 Southwood Drive in Lufkin, Angelina 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 an investigation conducted at the Facility on September 18, 2020 through October 27, 2020, an investigator documented a damaged and abandoned manhole and broken sewer tap at a six-inch line behind the Chestnut Village II shopping center caused a discharge of untreated sewage into Hurricane Creek resulting in approximately 63 dead fish.
3. The Executive Director recognizes that on September 21, 2020, the Respondent ceased the unauthorized discharge, repaired the sewer tap, replaced ten feet of six-inch sewer main, repaired the manhole, disinfected Hurricane Creek with chlorinated water, and reported the unauthorized discharge to the Beaumont Regional Office.

## 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 properly operate and maintain the systems of collection which resulted in an unauthorized discharge of municipal waste into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (5), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010214001, Permit Conditions No. 2.g and Operational Requirements No. 1.
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 \$6,000 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, \$6,000 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 ("Attachment 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 Lufkin, Docket No. 2020-1536-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 the SEP as set forth in Conclusion of Law No. 4. The amount of \$6,000 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 the Executive Director demands payment.

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.
7. 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.
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. 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.
10. 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.

11. 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

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For the Commission

-----  
Date

  
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For the Executive Director

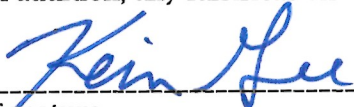
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1/2/2024  
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Date

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.

  
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Signature

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11/20/23  
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Date

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KEVIN GEE  
-----  
Name (Printed or typed)  
Authorized Representative of  
City of Lufkin

-----  
CITY MANAGER  
-----  
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: 2020-1536-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Lufkin
<b>Penalty Amount:</b>	\$6,000
<b>SEP Offset Amount:</b>	\$6,000
<b>Type of SEP:</b>	Compliance
<b>Project Name:</b>	<i>Manhole Rehabilitation</i>
<b>Location of SEP:</b>	Angelina County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order in exchange for Respondent’s performance of a Supplemental Environmental Project (“SEP”).

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 and associated collection system (“Facility”) which are described in this Agreed Order.

**I. Project Description**

*A. Project*

Respondent hired a contractor to perform rehabilitation to approximately forty-four manholes in Angelina County. Rehabilitation included installation of cured-in-place manhole triplex liners which provide a permanent barrier to prevent gases from penetrating the host structure and prevent groundwater from infiltrating the collection system. In addition, the metal lids were replaced with composite rings and lids. Specifically, the SEP Offset Amount was used for materials, supplies, and equipment for the manhole rehabilitation (the “Project”). Respondent hired qualified contractors to perform the Project. The SEP was performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent used the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed below in Subsection C. Expenses. No portion of the SEP Offset Amount was spent on administrative costs, including 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 had no prior commitment to perform this Project and that the SEP was 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 preventing wastewater discharges being released into the environment during the collection process.

Wastewater discharges 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. Expenses*

Respondent spent at least the SEP Offset Amount to complete the project described in Section 1.A, above, and complied with all other provisions of this SEP. Respondent understood that it may have costs more than the SEP Offset Amount to complete the Project.

**Expenses**

<b>Item</b>	<b>Quantity</b>	<b>Units</b>	<b>Total</b>
Manhole Rehabilitation	44	Lump Sum	\$629,592
<b>Total</b>			<b>\$629,592</b>

**2. Records**

As of January 30, 2023, Respondent provided TCEQ the following documentation as proof of completion of the proposed SEP:

1. An itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 2.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 2.1., above;
4. A certified statement of SEP completion and document authentication;
5. A detailed map showing the specific location of the project site(s); and
6. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project.

**3. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff and shall allow immediate (i.e., within 24 hours) access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of 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.

**4. 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 and 3 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

City of Lufkin  
Docket No. 2020-1536-MWD-E  
Attachment A

the check payable to "Texas Commission on Environmental Quality," and shall mail it to the SEP Coordinator at the address provided below:

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

**5. 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 TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Recognition**

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

**7. 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 TCEQ or any other agency of the state or federal government.