

Executive Summary – Enforcement Matter – Case No. 60227
City of Pearland
RN101609196 and RN101613446
Docket No. 2021-0034-WQ-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:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Southwest Environmental Center WWTP, 5900 Magnolia Parkway, Pearland, Brazoria County (“John Hargrove Facility”)

Barry Rose Facility 2, 1902 Barry Rose Road, Pearland, Brazoria County (“Barry Rose Facility”)

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: July 23, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$28,250

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$28,250

Name of SEP: Texas Water Development Board (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

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City of Pearland
RN101609196 and RN101613446
Docket No. 2021-0034-WQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 6, 2020

Date(s) of NOE(s): January 19, 2021

Violation Information

1. Failed to prevent the unauthorized discharge of sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010134007, Permit Conditions No. 2(g)].
2. Failed to notify the appropriate local government officials and the local media within 24 hours of an unauthorized discharge of 50,000 gallons or more occurring within one-half mile of a public or private source of drinking water [30 TEX. ADMIN. CODE § 319.302(b)(2)(A) and (c)].
3. Failed to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010134002, Permit Condition No. 2(g)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent completed the following corrective actions:

- a. By May 8, 2019, analyzed the effluent, replaced the motors, hired field labor, and repaired a sewage plant lift station in order to correct the discharge that began on May 7, 2019 for the Barry Rose Facility;
- b. By March 8, 2020, analyzed the effluent, replaced and tested the rotating assembly, repaired the process water system, hired field labor, rented a support truck and vacuum truck, and disposed of sewage water in order to correct the discharge that began on March 8, 2020 for the Barry Rose Facility;
- c. By September 22, 2020, analyzed the effluent; purchased an alarm system and new lay-flat hoses; hired field labor, cleaned the lift station; rented a support truck, crane, and vacuum truck; removed and rebuilt headworks climber screens; and installed new parts in order to correct the discharge that began on September 21, 2020 for the Barry Rose Facility;

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RN101609196 and RN101613446
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d. By October 27, 2020, removed and properly disposed of debris and dead fish; repaired the disconnected discharge line; placed a plug at the outfall leading out to the retention pond in the adjacent property; removed all wastewater from the ground, retention pond, and stormwater inlets; and added lime to sanitize the ground in order to correct the discharge that began on October 26, 2020 for the John Hargrove Facility; and

e. By October 30, 2020, notified the local media of an unauthorized discharge and submitted a copy of the notification to the TCEQ Houston Regional Office for the John Hargrove Facility.

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: Alyssa Loveday, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-5504; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Texas Water Development Board, Groundwater Monitoring Section, P.O. Box 13231, Austin, Texas 78711-3231

Respondent: The Honorable Kevin Cole, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581-5416

David Van Riper, Assistant Director of Public Works, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581-5416

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	4-Jan-2021			
	PCW	1-Mar-2021	Screening	4-Jan-2021	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	City of Pearland				
Reg. Ent. Ref. No.	RN101609196				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	60227	No. of Violations	2		
Docket No.	2021-0034-WQ-E	Order Type	Findings		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Alyssa Loveday		
		EC's Team	Enforcement Team 4		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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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.

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$3
 Estimated Cost of Compliance: \$25,250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,875
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$6,875
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Screening Date 4-Jan-2021

Docket No. 2021-0034-WQ-E

PCW

Respondent City of Pearland

Case ID No. 60227

Reg. Ent. Reference No. RN101609196

Media Water Quality

Enf. Coordinator Alyssa Loveday

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 4-Jan-2021

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PCW

Respondent City of Pearland

Policy Revision 4 (April 2014)

Case ID No. 60227

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101609196

Media Water Quality

Enf. Coordinator Alyssa Loveday

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010134007, Permit Conditions No. 2(g)

Violation Description Failed to prevent the unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, on October 26, 2020, approximately 62,000 gallons of sewage were released from a lift station located at 2704 Cullen Parkway in Pearland, Texas and the spilled sewage entered a retention pond, resulting in a fish kill of approximately 40 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

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 2 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One monthly event is recommended from the October 26, 2020 sanitary sewer overflow date to the October 27, 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 October 27, 2020, prior to the Notice of Enforcement dated December 29, 2020.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent City of Pearland
Case ID No. 60227
Reg. Ent. Reference No. RN101609196
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	\$25,000	26-Oct-2020	27-Oct-2020	0.00	\$3	n/a	\$3
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and properly dispose of debris and dead fish; repair the disconnected discharge line; place a plug at the outfall leading out to the retention pond in the adjacent property; remove all wastewater from the ground, retention pond, and storm water inlets; and add lime to sanitize the ground in order to correct the discharge for the John Hargrove Facility. The Date required is the date of the unauthorized discharge 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 \$25,000

TOTAL \$3

Screening Date 4-Jan-2021
Respondent City of Pearland
Case ID No. 60227
Reg. Ent. Reference No. RN101609196
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0034-WQ-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description

Failed to notify the appropriate local government officials and the local media within 24 hours of an unauthorized discharge of 50,000 gallons or more occurring within one-half mile of a public or private source of drinking water. Specifically, the Respondent did not notify the local media within 24 hours of a sanitary sewer overflow of 62,000 gallons that occurred on October 26, 2020 and approximately 0.25 mile from the City of Pearland's Cullen Public Drinking Water Well (G020008H).

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input 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 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 Pearland
Case ID No. 60227
Reg. Ent. Reference No. RN101609196
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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	27-Oct-2020	30-Oct-2020	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to notify the local media of an unauthorized discharge and submit a copy of the notification to the TCEQ Houston Regional Office for the John Hargrove Facility. Date Required is the date the notification was due. Final Date is the compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$0



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	25-Jan-2021			
	PCW	1-Mar-2021	Screening	25-Jan-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Pearland
Reg. Ent. Ref. No.	RN101613446
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60227	No. of Violations	1
Docket No.	2021-0034-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Alyssa Loveday
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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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.

Compliance History	20.0%	Adjustment	Subtotals 2, 3, & 7	\$4,500
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Notes: Enhancement for one order containing a denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$5,625
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$22
 Estimated Cost of Compliance: \$213,009
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$21,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,375
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$21,375
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Screening Date 25-Jan-2021

Docket No. 2021-0034-WQ-E

PCW

Respondent City of Pearland

Case ID No. 60227

Reg. Ent. Reference No. RN101613446

Media Water Quality

Enf. Coordinator Alyssa Loveday

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>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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) 20%

>> 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 order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 25-Jan-2021

Docket No. 2021-0034-WQ-E

PCW

Respondent City of Pearland

Policy Revision 4 (April 2014)

Case ID No. 60227

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101613446

Media Water Quality

Enf. Coordinator Alyssa Loveday

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010134002, Permit Conditions No. 2(g)

Violation Description Failed to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state. Specifically, approximately 4,680 gallons of sewage spilled onto the facility grounds and approximately 654,000 gallons of domestic wastewater discharged from two manholes at the facility and three manholes in the collection system into storm drains that outflow to Clear Creek from May 7, 2019 to May 8, 2019; approximately 150,000 gallons of untreated wastewater overflowed at the influent channel of the facility on March 8, 2020; and approximately 180,000 gallons of domestic wastewater discharged from two manholes onto the facility grounds and into a drainage ditch that outflows to Clear Creek from September 21, 2020 to September 22, 2020.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 3 5 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$22,500

One monthly event is recommended for the discharge that began on May 7, 2019 and was corrected on May 8, 2019; one monthly event for the discharge that began on March 8, 2020 and was corrected on March 8, 2020; and one monthly event for the discharge that began on September 21, 2020 and was corrected on September 22, 2020.

Good Faith Efforts to Comply

25.0%

Reduction \$5,625

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

Notes The Respondent achieved compliance by September 22, 2020, prior to the Notice of Enforcement dated January 19, 2021.

Violation Subtotal \$16,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$21,375

This violation Final Assessed Penalty (adjusted for limits) \$21,375

Economic Benefit Worksheet

Respondent City of Pearland
Case ID No. 60227
Reg. Ent. Reference No. RN101613446
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	\$50,711	7-May-2019	8-May-2019	0.00	\$7	n/a	\$7
Remediation/Disposal	\$50,845	8-Mar-2020	8-Mar-2020	0.00	\$0	n/a	\$0
Remediation/Disposal	\$111,453	21-Sep-2020	22-Sep-2020	0.00	\$15	n/a	\$15

Notes for DELAYED costs

Actual cost to analyze the effluent, replace the motors, hire field labor, and repair a sewage plant lift station in order to correct the discharge that began on May 7, 2019 for the Barry Rose Facility (\$50,711). The Date required is the date of the unauthorized discharge and the Final date is the date of compliance.

Actual cost to analyze the effluent, replace and test the rotating assembly, repair the process water system, hire field labor, rent a support truck and vacuum truck, and dispose of sewage water in order to correct the discharge that began on March 8, 2020 for the Barry Rose Facility (\$50,845). The Date required is the date of the unauthorized discharge and the Final date is the date of compliance.

Actual cost to analyze the effluent; purchase an alarm system and new lay-flat hoses; hire field labor; clean the lift station; rent a support truck, crane, and vacuum truck; remove and rebuild headworks climber screens; and install new parts in order to correct the discharge that began on September 21, 2020 for the Barry Rose Facility (\$111,453). The Date required is the date of the unauthorized discharge 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

\$213,009

TOTAL

\$22

The TCEQ is committed to accessibility.

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Compliance History Report

Compliance History Report for CN600595052, RN101609196, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600595052, City of Pearland **Classification:** SATISFACTORY **Rating:** 0.29

Regulated Entity: RN101609196, SOUTHWEST ENVIRONMENTAL CENTER WWTP **Classification:** HIGH **Rating:** 0.00

Complexity Points: 9 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 5900 Magnolia Parkway, Pearland, Texas, 77584

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION STORMWATER PERMIT TXR05V641
REGISTRATION 86060
WASTEWATER PERMIT WQ0010134007 WASTEWATER EPA ID TX0116581

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

Date Compliance History Report Prepared: March 01, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 01, 2016 to March 01, 2021

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:

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	March 17, 2016	(1333464)	Item 11	March 20, 2017	(1412831)
Item 2	May 20, 2016	(1347419)	Item 12	April 19, 2017	(1419328)
Item 3	June 20, 2016	(1353821)	Item 13	April 27, 2017	(1441528)
Item 4	July 20, 2016	(1360807)	Item 14	May 18, 2017	(1426966)
Item 5	September 30, 2016	(1367251)	Item 15	June 20, 2017	(1409890)
Item 6	October 19, 2016	(1380118)	Item 17	September 27, 2017	(1445205)
Item 7	November 17, 2016	(1386074)	Item 18	October 18, 2017	(1457654)
Item 8	December 20, 2016	(1392224)	Item 19	November 20, 2017	(1463089)
Item 9	January 20, 2017	(1398826)	Item 20	December 19, 2017	(1469521)
Item 10	February 20, 2017	(1405730)	Item 21	January 22, 2018	(1476226)

Item 22	February 20, 2018	(1488389)	Item 38	July 19, 2019	(1594835)
Item 23	March 16, 2018	(1492065)	Item 39	September 12, 2019	(1608047)
Item 24	May 01, 2018	(1495348)	Item 40	September 30, 2019	(1601134)
Item 25	May 15, 2018	(1502282)	Item 41	October 28, 2019	(1614914)
Item 26	June 20, 2018	(1509395)	Item 42	November 15, 2019	(1620702)
Item 27	July 20, 2018	(1515717)	Item 43	December 16, 2019	(1628051)
Item 28	September 19, 2018	(1528938)	Item 44	December 20, 2019	(1635681)
Item 29	September 27, 2018	(1521750)	Item 45	February 20, 2020	(1642296)
Item 30	October 20, 2018	(1535261)	Item 46	March 18, 2020	(1648807)
Item 31	November 20, 2018	(1543118)	Item 47	April 20, 2020	(1655160)
Item 32	December 20, 2018	(1546854)	Item 48	May 12, 2020	(1661720)
Item 33	February 20, 2019	(1564687)	Item 49	June 18, 2020	(1668255)
Item 34	March 20, 2019	(1564688)	Item 50	July 20, 2020	(1675201)
Item 35	April 16, 2019	(1573494)	Item 51	September 16, 2020	(1688547)
Item 36	May 20, 2019	(1586581)	Item 52	September 30, 2020	(1681975)
Item 37	June 13, 2019	(1586582)	Item 53	October 16, 2020	(1694911)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Item 8* November 17, 2016** For Informational Purposes Only
(1392224)

Item 9* December 20, 2016** For Informational Purposes Only
(1398826)

Item 10* January 20, 2017** For Informational Purposes Only
(1405730)

Item 11* February 20, 2017** For Informational Purposes Only
(1412831)

Item 12* March 20, 2017** For Informational Purposes Only
(1419328)

Item 13* April 19, 2017** For Informational Purposes Only
(1441528)

Item 14* April 27, 2017** For Informational Purposes Only
(1426966)

Item 15* May 18, 2017** For Informational Purposes Only
(1409890)

Item 16* June 20, 2017** For Informational Purposes Only
(1451780)

Item 17 September 19, 2017** For Informational Purposes Only
(1445205)

Item 18* September 27, 2017** For Informational Purposes Only
(1457654)

Item 19* October 18, 2017** For Informational Purposes Only
(1463089)

Item 20* November 20, 2017** For Informational Purposes Only
(1469521)

Item 21* December 19, 2017** For Informational Purposes Only
(1476226)

Item 22* January 22, 2018** For Informational Purposes Only
(1488389)

Item 23* February 20, 2018** For Informational Purposes Only
(1492065)

Item 24* March 16, 2018** For Informational Purposes Only
(1495348)

Item 25* May 01, 2018** For Informational Purposes Only
(1502282)

Item 26* May 15, 2018** For Informational Purposes Only
(1509395)

Item 27* June 20, 2018** For Informational Purposes Only
(1515717)

Item 28* July 20, 2018** For Informational Purposes Only
(1528938)

Item 29* September 19, 2018** For Informational Purposes Only
(1521750)

Item 30* September 27, 2018** For Informational Purposes Only
(1535261)

Item 31* October 20, 2018** For Informational Purposes Only
(1543118)

Item 32* November 20, 2018** For Informational Purposes Only
(1530552)

Item 33 December 14, 2018** For Informational Purposes Only
(1546854)

Item 34* December 20, 2018** For Informational Purposes Only
(1564689)

Item 35 January 22, 2019** For Informational Purposes Only
(1564687)

Item 36* February 20, 2019** For Informational Purposes Only
(1564688)

Item 37* March 20, 2019** For Informational Purposes Only
(1573494)

Item 38* April 16, 2019** For Informational Purposes Only
(1586581)

Item 39* May 20, 2019** For Informational Purposes Only
(1586582)

Item 40* June 13, 2019** For Informational Purposes Only
(1594835)

Item 41* July 19, 2019** For Informational Purposes Only
(1608047)

Item 42* September 12, 2019** For Informational Purposes Only
(1601134)

Item 43* September 30, 2019** For Informational Purposes Only
(1614914)

Item 44* October 28, 2019** For Informational Purposes Only
(1620702)

Item 45* November 15, 2019** For Informational Purposes Only
(1628051)

Item 46* December 16, 2019** For Informational Purposes Only
(1635681)

Item 47* December 20, 2019** For Informational Purposes Only
(1642296)

Item 48* February 20, 2020** For Informational Purposes Only
(1648807)

Item 49* March 18, 2020** For Informational Purposes Only

Item 50*	April 20, 2020**	(1655160) For Informational Purposes Only
Item 51*	May 12, 2020**	(1661720) For Informational Purposes Only
Item 52*	June 18, 2020**	(1668255) For Informational Purposes Only
Item 53*	July 20, 2020**	(1675201) For Informational Purposes Only
Item 54*	September 16, 2020	(1688547) For Informational Purposes Only
Item 55*	September 30, 2020	(1681975) For Informational Purposes Only
Item 56*	October 16, 2020	(1694911) For Informational Purposes Only
Item 57	December 29, 2020	(1686088) For Informational Purposes Only

* No violations documented during this investigation

** Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

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Compliance History Report

Compliance History Report for CN600595052, RN101613446, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600595052, City of Pearland **Classification:** SATISFACTORY **Rating:** 0.29

Regulated Entity: RN101613446, BARRY ROSE FACILITY 2 **Classification:** SATISFACTORY **Rating:** 1.41

Complexity Points: 10 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1902 Barry Rose Road, Pearland, in Brazoria County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):
WASTEWATER PERMIT WQ0010134002 **WASTEWATER EPA ID TX0032735**
STORMWATER PERMIT TXR05V643

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

Date Compliance History Report Prepared: March 01, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 01, 2016 to March 01, 2021

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: 11/08/2016 ADMINORDER 2015-0915-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: TPDES Permit No. WQ0012003002 PERMIT
Description: failed to comply with permitted effluent limits

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	April 20, 2016	(1339386)	Item 6	September 20, 2016	(1372725)
Item 2	May 20, 2016	(1346198)	Item 7	October 19, 2016	(1378897)
Item 3	June 20, 2016	(1352631)	Item 8	November 17, 2016	(1384861)
Item 4	July 20, 2016	(1359595)	Item 9	December 09, 2016	(1377869)
Item 5	August 20, 2016	(1366036)	Item 10	December 20, 2016	(1390996)
			Item 11	February 07, 2017	(1397616)

Item 12	February 20, 2017	(1404505)	Item 35	January 18, 2019	(1561075)
Item 13	February 27, 2017	(1393655)	Item 36	February 20, 2019	(1561073)
Item 14	March 20, 2017	(1411598)	Item 37	March 20, 2019	(1561074)
Item 15	April 19, 2017	(1418095)	Item 38	April 16, 2019	(1572289)
Item 16	May 18, 2017	(1425687)	Item 39	May 20, 2019	(1584187)
Item 17	June 20, 2017	(1431724)	Item 40	June 13, 2019	(1584188)
Item 18	July 19, 2017	(1440307)	Item 41	July 19, 2019	(1593628)
Item 19	September 19, 2017	(1450592)	Item 42	September 12, 2019	(1606860)
Item 20	September 25, 2017	(1443988)	Item 43	September 30, 2019	(1599957)
Item 21	October 18, 2017	(1456450)	Item 44	October 18, 2019	(1613703)
Item 22	November 20, 2017	(1461917)	Item 45	November 15, 2019	(1619517)
Item 23	December 19, 2017	(1468302)	Item 46	December 16, 2019	(1626869)
Item 24	February 20, 2018	(1487218)	Item 47	December 20, 2019	(1634510)
Item 25	March 16, 2018	(1490890)	Item 48	February 20, 2020	(1641125)
Item 26	April 27, 2018	(1494137)	Item 49	March 18, 2020	(1647642)
Item 27	May 01, 2018	(1514506)	Item 50	April 20, 2020	(1653988)
Item 28	May 14, 2018	(1501087)	Item 51	May 12, 2020	(1660564)
Item 29	June 19, 2018	(1508174)	Item 52	June 18, 2020	(1667081)
Item 30	September 19, 2018	(1527728)	Item 53	July 20, 2020	(1674029)
Item 31	September 27, 2018	(1520559)	Item 54	August 19, 2020	(1680807)
Item 32	October 20, 2018	(1534087)	Item 55	September 17, 2020	(1687376)
Item 33	November 20, 2018	(1541919)	Item 56	October 16, 2020	(1693716)
Item 34	December 20, 2018	(1545692)			

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOV's Issued During Component Period 3/1/2016 and 3/1/2021

- 1 Date: 02/29/2016 (1332231) 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
- 2 Date: 07/01/2016 (1337885) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
TPDES Permit WQ0010134-002 PERMIT
Description: Failed to prevent the unauthorized discharge of wastewater. Specifically, during the 18 months preceding the investigation, 6 unauthorized discharges were reported. See the attached bypass table.
- 3 Date: 12/18/2017 (1435090) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
TPDES Permit WQ0010134-002 PERMIT
Description: Failed to prevent the unauthorized discharge of wastewater. Specifically, during the 18 months preceding the investigation, 6 unauthorized discharges were reported. See the attached bypass table.
- 4 Date: 12/31/2017 (1474998) 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
- 5 Date: 11/29/2018 (1507236) Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0010134002 PERMIT
Description: Failure to properly operate and maintain treatment unit.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(g)(4)(A)
WQ0010134002 IHWPERMTCP
Description: Failure to properly operate and maintain the facility.

* NOV's applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B

All Investigations Conducted During Component Period March 01, 2016 and March 01, 2021

- Item 1 March 17, 2016** (1332231) For Informational Purposes Only
- Item 2* April 20, 2016** (1339386) For Informational Purposes Only
- (1346198)

Item 3*	May 20, 2016**	For Informational Purposes Only (1352631)
Item 4*	June 20, 2016**	For Informational Purposes Only (1337885)
Item 5	June 30, 2016**	For Informational Purposes Only (1359595)
Item 6*	July 20, 2016**	For Informational Purposes Only (1366036)
Item 7*	August 20, 2016**	For Informational Purposes Only (1372725)
Item 8*	September 20, 2016**	For Informational Purposes Only (1378897)
Item 9*	October 19, 2016**	For Informational Purposes Only (1384861)
Item 10*	November 17, 2016**	For Informational Purposes Only (1377869)
Item 11*	December 09, 2016**	For Informational Purposes Only (1390996)
Item 12*	December 20, 2016**	For Informational Purposes Only (1397616)
Item 13*	February 07, 2017**	For Informational Purposes Only (1404505)
Item 14*	February 20, 2017**	For Informational Purposes Only (1393655)
Item 15*	February 27, 2017**	For Informational Purposes Only (1411598)
Item 16*	March 20, 2017**	For Informational Purposes Only (1418095)
Item 17*	April 19, 2017**	For Informational Purposes Only (1425687)
Item 18*	May 18, 2017**	For Informational Purposes Only (1431724)
Item 19*	June 20, 2017**	For Informational Purposes Only (1440307)
Item 20*	July 19, 2017**	For Informational Purposes Only (1450592)
Item 21*	September 19, 2017**	For Informational Purposes Only (1443988)
Item 22*	September 25, 2017**	For Informational Purposes Only (1456450)
Item 23*	October 18, 2017**	For Informational Purposes Only (1461917)

Item 24* November 20, 2017** For Informational Purposes Only
(1435090)

Item 25 December 16, 2017** For Informational Purposes Only
(1468302)

Item 26* December 19, 2017** For Informational Purposes Only
(1474998)

Item 27 January 20, 2018** For Informational Purposes Only
(1487218)

Item 28* February 20, 2018** For Informational Purposes Only
(1490890)

Item 29* March 16, 2018** For Informational Purposes Only
(1494137)

Item 30* April 27, 2018** For Informational Purposes Only
(1514506)

Item 31* May 01, 2018** For Informational Purposes Only
(1501087)

Item 32* May 14, 2018** For Informational Purposes Only
(1508174)

Item 33* June 19, 2018** For Informational Purposes Only
(1527728)

Item 34* September 19, 2018** For Informational Purposes Only
(1520559)

Item 35* September 27, 2018** For Informational Purposes Only
(1534087)

Item 36* October 20, 2018** For Informational Purposes Only
(1541919)

Item 37* November 20, 2018** For Informational Purposes Only
(1507236)

Item 38 November 28, 2018** For Informational Purposes Only
(1545692)

Item 39* December 20, 2018** For Informational Purposes Only
(1561075)

Item 40* January 18, 2019** For Informational Purposes Only
(1561073)

Item 41* February 20, 2019** For Informational Purposes Only
(1561074)

Item 42* March 20, 2019** For Informational Purposes Only
(1572289)

Item 43* April 16, 2019** For Informational Purposes Only
(1584187)

Item 44* May 20, 2019** For Informational Purposes Only

Item 45	June 12, 2019**	(1555353) For Informational Purposes Only
Item 46*	June 13, 2019**	(1584188) For Informational Purposes Only
Item 47*	July 19, 2019**	(1593628) For Informational Purposes Only
Item 48*	September 12, 2019**	(1606860) For Informational Purposes Only
Item 49*	September 30, 2019**	(1599957) For Informational Purposes Only
Item 50*	October 18, 2019**	(1613703) For Informational Purposes Only
Item 51*	November 15, 2019**	(1619517) For Informational Purposes Only
Item 52*	December 16, 2019**	(1626869) For Informational Purposes Only
Item 53*	December 20, 2019**	(1634510) For Informational Purposes Only
Item 54*	February 20, 2020**	(1641125) For Informational Purposes Only
Item 55*	March 18, 2020**	(1647642) For Informational Purposes Only
Item 56*	April 20, 2020**	(1653988) For Informational Purposes Only
Item 57*	May 12, 2020**	(1660564) For Informational Purposes Only
Item 58*	June 18, 2020**	(1667081) For Informational Purposes Only
Item 59*	July 20, 2020**	(1674029) For Informational Purposes Only
Item 60*	August 19, 2020**	(1680807) For Informational Purposes Only
Item 61*	September 17, 2020	(1687376) For Informational Purposes Only
Item 62*	October 16, 2020	(1693716) For Informational Purposes Only
Item 63	January 19, 2021	(1686623) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PEARLAND
RN101609196 AND RN101613446**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2021-0034-WQ-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 Pearland (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 wastewater treatment facilities located at 5900 Magnolia Parkway in Pearland (the "John Hargrove Facility") and 1902 Barry Rose Road in Pearland (the "Barry Rose Facility"), Brazoria County, Texas (collectively, the "Facilities"). The Facilities are near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on November 3, 2020 for the John Hargrove Facility, an investigator documented that:
 - a. On October 26, 2020, approximately 62,000 gallons of sewage were released from a lift station located at 2704 Cullen Parkway in Pearland, Texas and the spilled sewage entered a retention pond, resulting in a fish kill of approximately 40 fish.
 - b. The Respondent did not notify the local media within 24 hours of a sanitary sewer overflow of 62,000 gallons that occurred on October 26, 2020 and

approximately 0.25 mile from the City of Pearland's Cullen Public Drinking Water Well (G020008H).

3. During a record review conducted on November 6, 2020 for the Barry Rose Facility, an investigator documented that approximately 4,680 gallons of sewage spilled onto the facility grounds and approximately 654,000 gallons domestic wastewater discharged from two manholes at the facility and three manholes in the collection system into storm drains that outflow to Clear Creek from May 7, 2019 to May 8, 2019; approximately 150,000 gallons of untreated wastewater overflowed at the influent channel of the facility on March 8, 2020; and approximately 180,000 gallons of domestic wastewater discharged from two manholes onto the facility grounds and into a drainage ditch that outflows to Clear Creek from September 21, 2020 to September 22, 2020.
4. The Executive Director recognizes that the Respondent completed the following corrective actions:
 - a. By May 8, 2019, analyzed the effluent, replaced the motors, hired field labor, and repaired a sewage plant lift station in order to correct the discharge that began on May 7, 2019 for the Barry Rose Facility.
 - b. By March 8, 2020, analyzed the effluent, replaced and tested the rotating assembly, repaired the process water system, hired field labor, rented a support truck and vacuum truck, and disposed of sewage water in order to correct the discharge that began on March 8, 2020 for the Barry Rose Facility.
 - c. By September 22, 2020, analyzed the effluent; purchased an alarm system and new lay-flat hoses; hired field labor, cleaned the lift station; rented a support truck, crane, and vacuum truck; removed and rebuilt headworks climber screens; and installed new parts in order to correct the discharge that began on September 21, 2020 for the Barry Rose Facility.
 - d. By October 27, 2020, removed and properly disposed of debris and dead fish; repaired the disconnected discharge line; placed a plug at the outfall leading out to the retention pond in the adjacent property; removed all wastewater from the ground, retention pond, and stormwater inlets; and added lime to sanitize the ground in order to correct the discharge that began on October 26, 2020 for the John Hargrove Facility.
 - e. By October 30, 2020, notified the local media of an unauthorized discharge and submitted a copy of the notification to the TCEQ Houston Regional Office for the John Hargrove Facility.

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.a, the Respondent failed to prevent the unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010134007, Permit Conditions No. 2(g).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to notify the appropriate local government officials and the local media within 24 hours of an unauthorized discharge of 50,000 gallons or more occurring within one-half mile of a public or private source of drinking water, in violation of 30 TEX. ADMIN. CODE § 319.302(b)(2)(A) and (c).
4. As evidenced by Finding of Fact No. 3, the Respondent failed to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010134002, Permit Condition No. 2(g).
5. 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.
6. An administrative penalty in the amount of \$28,250 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, \$28,250 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. 6 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 Pearland, Docket No. 2021-0034-WQ-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. 6. The amount of \$28,250 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. 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 Facilities 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

For the Commission

Date

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.

David Van Riper
Signature

Digitally signed by David Van Riper
DN: C=US, E=dvanriper@pearlandtx.gov, O=City of
Pearland, CN=David Van Riper
Date: 2021.10.29 15:11:24-0500

10/29/2021
Date

David Van Riper
Name (Printed or typed)
Authorized Representative of
City of Pearland

Assistant Director of Public Works
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: 2021-0034-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Pearland
Payable Penalty Amount:	\$28,250
SEP Offset Amount:	\$28,250
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Texas Water Development Board
Project Name:	<i>Water-Level Recorder Data in Every Texas County</i>
Location of SEP:	Statewide, with Preference for Brazoria County

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

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Texas Water Development Board** for the *Water-Level Recorder Data in Every Texas County* project. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to purchase, install, and maintain automatic water-level recorders in unused wells in the remaining one hundred sixty-six (166) counties. The Third-Party Administrator shall give preference to installing water-level recorders initially in counties in which there are 1) no existing automatic water-level recorder wells, 2) no groundwater conservation district, or 3) groundwater conservation districts that do not have the staff and/or the financial ability to install an automatic water-level recorder. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

City of Pearland
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The groundwater stored within Texas' minor and major aquifers is an important natural resource that is relied upon to meet the water supply demands of Texans across the state. Many factors affect the availability of this resource including drought and increased demand. This Project will provide statewide comprehensive real-time groundwater level data to Texas counties, cities, groundwater conservation districts, water supply companies, and individual well owners. The availability of this comprehensive data will promote awareness of the effects of drought on Texas' aquifers and assist in groundwater management planning and use throughout the state.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Texas Water Development Board SEP** and shall mail the contribution with a copy of the Agreed Order to:

Texas Water Development Board
Attention: Manager
Groundwater Monitoring Section
P.O. Box 13231
Austin, Texas 78711-3231

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

City of Pearland
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the 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 ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the 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, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the 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

5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the 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.

6. Recognition

The Respondent may not seek recognition for this contribution 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.