

Executive Summary – Enforcement Matter – Case No. 60871
City of Denton
RN102095445
Docket No. 2021-0748-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Pecan Creek Water Reclamation Plant, 1100 South Mayhill Road, Denton, Denton County

Type of Operation:

Wastewater treatment facility with an associated wastewater 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: March 11, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,812

Total Paid to General Revenue: \$11,812

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 15, 2021

Date(s) of NOE(s): February 25, 2021

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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. WQ0010027003, Permit Conditions No. 2.g].
2. Failed to report an unauthorized discharge to the Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010027003, Monitoring and Reporting Requirements Nos. 7.a and 7.b.i].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent completed the following corrective actions:

- a. By January 14, 2021, notified the TCEQ of the unauthorized discharge that occurred on January 12, 2021; and
- b. By January 19, 2021, the vegetation blocking flow and growing within the manhole was removed and the ditch immediately downstream of the discharge was cleaned and the sewage was vacuumed. Additionally, clean water was added to the tributary to dilute the remaining wastewater.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days, clean the sludge approximately 1,000 feet downstream of the stormwater channel which flows to an unnamed tributary located in Denton County;
- b. Within 30 days, update the operational guidance and conduct employee training to ensure that the unauthorized discharge self-reporting requirements are properly accomplished; and
- c. Within 45 days, submit written certification to demonstrate compliance with a. and b.

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Docket No. 2021-0748-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Laura Draper, Enforcement Division, R-9, (254) 761-3012; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Gerard Hudspeth, Mayor, City of Denton, 215 East McKinney Street, Denton, Texas 76201-4229

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	1-Mar-2021	Screening	11-Mar-2021	EPA Due	
	PCW	20-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Denton
Reg. Ent. Ref. No.	RN102095445
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60871	No. of Violations	2
Docket No.	2021-0748-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Alyssa Loveday
		EC's Team	Enforcement Team 1
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	35.0% Adjustment	Subtotals 2, 3, & 7	\$3,062
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Notes: Enhancement for two months of self-reported effluent violations and one order without 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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$532
 Estimated Cost of Compliance: \$10,010
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$11,812
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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	\$11,812
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$11,812
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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	\$11,812
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Screening Date 11-Mar-2021

Docket No. 2021-0748-MWD-E

PCW

Respondent City of Denton

Policy Revision 4 (April 2014)

Case ID No. 60871

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102095445

Media Water Quality

Enf. Coordinator Alyssa Loveday

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	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	1	25%
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) 35%

>> 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 two months of self-reported effluent violations and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 11-Mar-2021
Respondent City of Denton
Case ID No. 60871
Reg. Ent. Reference No. RN102095445
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0748-MWD-E

PCW

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

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 ("TPDES") Permit No. WQ0010027003, 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 January 12, 2021, root growth into a manhole located at 6404 Crapemyrtle Drive in Denton, Texas resulted in the discharge of approximately 120,000 gallons of sewage into an unnamed tributary that flows to Pecan Creek.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 58 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the January 12, 2021 sanitary sewer overflow date to the March 11, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$532

Violation Final Penalty Total \$10,125

This violation Final Assessed Penalty (adjusted for limits) \$10,125

Economic Benefit Worksheet

Respondent City of Denton
Case ID No. 60871
Reg. Ent. Reference No. RN102095445
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	\$10,000	12-Jan-2021	4-Feb-2022	1.06	\$532	n/a	\$532
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated Remediation/Disposal cost to clean the sludge approximately 1,000 feet downstream of the stormwater channel which flows to an unnamed tributary located in Denton, Denton County, Texas. The Date Required is the unauthorized discharge date, and the Final Date is the estimated date of 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

\$10,000

TOTAL

\$532

Screening Date 11-Mar-2021
Respondent City of Denton
Case ID No. 60871
Reg. Ent. Reference No. RN102095445
Media Water Quality
Enf. Coordinator Alyssa Loveday

Docket No. 2021-0748-MWD-E

PCW

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

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010027003, Monitoring and Reporting Requirements No. 7a and 7.b.i

Violation Description

Failed to report an unauthorized discharge to the Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance. Specifically, the City did not notify TCEQ until 42 hours after becoming initially aware of the unauthorized discharge that occurred on January 12, 2021.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Denton
Case ID No. 60871
Reg. Ent. Reference No. RN102095445
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	\$5	13-Jan-2021	4-Feb-2022	1.06	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5	13-Jan-2021	14-Jan-2021	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Estimated cost to notify the TCEQ as soon as possible but not later than 24 hours after the occurrence of a spill or discharge. The Date Required is the notification due 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

TOTAL \$0

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 CN600358980, RN102095445, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600358980, City of Denton **Classification:** SATISFACTORY **Rating:** 1.83

Regulated Entity: RN102095445, PECAN CREEK WATER RECLAMATION PLANT **Classification:** SATISFACTORY **Rating:** 7.20

Complexity Points: 8 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1100 South Mayhill Road in Denton, Denton County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
PRETREATMENT EPA ID TX0047180000 **WASTEWATER** PERMIT WQ0010027003
WASTEWATER EPA ID TX0047180 **WASTEWATER** AUTHORIZATION R10027003

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: September 20, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 20, 2016 to September 20, 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: 04/13/2020 ADMINORDER 2019-0654-MWD-E (Findings Order-Agreed Order Without Denial)
 Classification: Major
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: WQ0010027-003 PERMIT
 Description: Failed to prevent an unauthorized discharge of untreated 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 Texas Pollutant Discharge Elimination System Permit No. WQ0010027003, Permit Conditions, No. 2.g.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	October 17, 2016	(1378982)	Item 7	April 18, 2017	(1418178)
Item 2	November 15, 2016	(1384945)	Item 8	May 16, 2017	(1425771)
Item 3	December 16, 2016	(1391079)	Item 9	June 16, 2017	(1431814)
Item 4	January 20, 2017	(1397699)	Item 10	July 10, 2017	(1440391)
Item 5	February 17, 2017	(1404588)	Item 11	August 18, 2017	(1430101)
Item 6	March 16, 2017	(1411680)	Item 12	August 28, 2017	(1444072)

Item 13	September 19, 2017	(1450676)	Item 36	August 15, 2019	(1600040)
Item 14	October 12, 2017	(1456533)	Item 37	September 17, 2019	(1606941)
Item 15	November 17, 2017	(1461999)	Item 38	October 16, 2019	(1613788)
Item 16	December 18, 2017	(1468383)	Item 39	October 29, 2019	(1598402)
Item 17	January 17, 2018	(1475082)	Item 40	November 15, 2019	(1619599)
Item 18	February 19, 2018	(1487298)	Item 41	December 20, 2019	(1626953)
Item 19	March 15, 2018	(1490973)	Item 42	January 15, 2020	(1634593)
Item 20	April 18, 2018	(1494219)	Item 43	March 17, 2020	(1647723)
Item 21	May 17, 2018	(1501169)	Item 44	April 20, 2020	(1654072)
Item 22	June 15, 2018	(1508256)	Item 45	May 14, 2020	(1660644)
Item 23	July 19, 2018	(1514588)	Item 46	June 16, 2020	(1667164)
Item 24	September 12, 2018	(1527812)	Item 47	July 15, 2020	(1674116)
Item 25	October 15, 2018	(1534169)	Item 48	September 11, 2020	(1687460)
Item 26	November 15, 2018	(1542003)	Item 49	September 29, 2020	(1680889)
Item 27	December 14, 2018	(1545774)	Item 50	October 14, 2020	(1693799)
Item 28	February 07, 2019	(1561326)	Item 51	November 17, 2020	(1714086)
Item 29	February 13, 2019	(1561324)	Item 52	December 14, 2020	(1714087)
Item 30	March 13, 2019	(1561325)	Item 53	January 13, 2021	(1714088)
Item 31	April 15, 2019	(1572372)	Item 54	February 19, 2021	(1727152)
Item 32	May 14, 2019	(1584356)	Item 55	April 15, 2021	(1727154)
Item 33	June 19, 2019	(1584357)	Item 56	May 18, 2021	(1740877)
Item 34	July 15, 2019	(1593712)	Item 57	July 15, 2021	(1752245)
Item 35	July 29, 2019	(1581294)	Item 58	August 17, 2021	(1757694)

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: 02/28/2021 (1727153)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- 2 Date: 05/31/2021 (1747872)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 9/20/2016 and 9/20/2021

- 1 Date: 05/22/2017 (1407492) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010027-003 PERMIT
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system. Specifically, the permittee reported 25 sanitary sewer overflows from the collection system and the WWTP totaling 67,715 gallons since 2015. There shall be no unauthorized discharge of wastewater or any other waste.
- 2 Date: 07/31/2018 (1520644) 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
- 3 Date: 01/31/2019 (1538683) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
Permit Conditions No. 2.g PERMIT
Description: Failed to prevent the unauthorized discharge of wastewater.
- 4 Date: 06/11/2019 (1555852) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010027-003 PERMIT
Description: Failure to prevent unauthorized discharge of wastewater from the collection system.
- 5 Date: 01/21/2020 (1622558) Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions, 2(g) PERMIT
Description: Failure to prevent the unauthorized discharge of wastewater into or adjacent to waters in the state. Specifically, the City of Denton experienced a sanitary sewer overflow (SSO) from the Hickory Creek Lift Station from November 24 - 27, 2019 totaling 0.49 million gallons because of a pump failure. The SSO accumulated in low laying areas and some entered Hickory Creek. Four additional SSOs from the collection system were reported to the TCEQ since the compliance investigation conducted on April 2
- 6 Date: 01/31/2020 (1641208) 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
- 7* Date: 02/28/2021 (1727153) 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

8* Date: 05/31/2021 (1747872) Classification: Moderate

Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

* NOVs applicable for the Compliance History rating period 9/1/2016 to 8/31/2021

Appendix B

All Investigations Conducted During Component Period September 20, 2016 and September 20, 2021

Item 1*	October 17, 2016**	(1378982) For Informational Purposes Only
Item 2*	November 15, 2016**	(1384945) For Informational Purposes Only
Item 3*	December 16, 2016**	(1391079) For Informational Purposes Only
Item 4*	January 20, 2017**	(1397699) For Informational Purposes Only
Item 5*	February 17, 2017**	(1404588) For Informational Purposes Only
Item 6*	March 16, 2017**	(1411680) For Informational Purposes Only
Item 7*	April 18, 2017**	(1418178) For Informational Purposes Only
Item 8	May 15, 2017**	(1407492) For Informational Purposes Only
Item 9*	May 16, 2017**	(1425771) For Informational Purposes Only
Item 10*	June 16, 2017**	(1431814) For Informational Purposes Only
Item 11*	July 10, 2017**	(1440391) For Informational Purposes Only
Item 12*	August 18, 2017**	(1430101) For Informational Purposes Only
Item 13*	August 28, 2017**	(1444072) For Informational Purposes Only
Item 14*	September 19, 2017**	(1450676) For Informational Purposes Only
Item 15*	October 12, 2017**	(1456533) For Informational Purposes Only
Item 16*	November 17, 2017**	(1461999) For Informational Purposes Only

Item 17*	December 18, 2017**	(1468383) For Informational Purposes Only
Item 18*	January 17, 2018**	(1475082) For Informational Purposes Only
Item 19*	February 19, 2018**	(1487298) For Informational Purposes Only
Item 20*	March 15, 2018**	(1490973) For Informational Purposes Only
Item 21*	April 18, 2018**	(1494219) For Informational Purposes Only
Item 22*	May 17, 2018**	(1501169) For Informational Purposes Only
Item 23*	June 15, 2018**	(1508256) For Informational Purposes Only
Item 24*	July 19, 2018**	(1514588) For Informational Purposes Only
Item 25	August 23, 2018**	(1520644) For Informational Purposes Only
Item 26*	September 12, 2018**	(1527812) For Informational Purposes Only
Item 27*	October 15, 2018**	(1534169) For Informational Purposes Only
Item 28*	November 15, 2018**	(1542003) For Informational Purposes Only
Item 29*	December 14, 2018**	(1545774) For Informational Purposes Only
Item 30	January 25, 2019**	(1538683) For Informational Purposes Only
Item 31*	February 07, 2019**	(1561326) For Informational Purposes Only
Item 32*	February 13, 2019**	(1561324) For Informational Purposes Only
Item 33*	March 13, 2019**	(1561325) For Informational Purposes Only
Item 34	April 15, 2019**	(1519393) For Informational Purposes Only
Item 35*	May 14, 2019**	(1584356) For Informational Purposes Only
Item 36	June 03, 2019**	(1555852) For Informational Purposes Only
Item 37*	June 19, 2019**	(1584357) For Informational Purposes Only
		(1593712)

Item 38*	July 15, 2019**	For Informational Purposes Only (1581294)
Item 39*	July 29, 2019**	For Informational Purposes Only (1600040)
Item 40*	August 15, 2019**	For Informational Purposes Only (1606941)
Item 41*	September 17, 2019**	For Informational Purposes Only (1613788)
Item 42*	October 16, 2019**	For Informational Purposes Only (1598402)
Item 43*	October 29, 2019**	For Informational Purposes Only (1619599)
Item 44*	November 15, 2019**	For Informational Purposes Only (1626953)
Item 45*	December 20, 2019**	For Informational Purposes Only (1622558)
Item 46	January 14, 2020**	For Informational Purposes Only (1634593)
Item 47*	January 15, 2020**	For Informational Purposes Only (1641208)
Item 48	February 12, 2020**	For Informational Purposes Only (1633852)
Item 49	March 16, 2020**	For Informational Purposes Only (1647723)
Item 50*	March 17, 2020**	For Informational Purposes Only (1654072)
Item 51*	April 20, 2020**	For Informational Purposes Only (1660644)
Item 52*	May 14, 2020**	For Informational Purposes Only (1667164)
Item 53*	June 16, 2020**	For Informational Purposes Only (1674116)
Item 54*	July 15, 2020**	For Informational Purposes Only (1687460)
Item 55*	September 11, 2020**	For Informational Purposes Only (1680889)
Item 56*	September 29, 2020**	For Informational Purposes Only (1693799)
Item 57*	October 14, 2020**	For Informational Purposes Only (1714086)
Item 58*	November 17, 2020**	For Informational Purposes Only (1679147)

Item 59	December 03, 2020**	For Informational Purposes Only (1714087)
Item 60*	December 14, 2020**	For Informational Purposes Only (1698408)
Item 61	January 08, 2021**	For Informational Purposes Only (1714088)
Item 62*	January 13, 2021**	For Informational Purposes Only (1727152)
Item 63*	February 19, 2021**	For Informational Purposes Only (1699926)
Item 64	February 25, 2021**	For Informational Purposes Only (1727153)
Item 65	March 19, 2021**	For Informational Purposes Only (1727154)
Item 66*	April 15, 2021**	For Informational Purposes Only (1740877)
Item 67*	May 18, 2021**	For Informational Purposes Only (1747872)
Item 68	June 18, 2021**	For Informational Purposes Only (1752245)
Item 69*	July 15, 2021**	For Informational Purposes Only (1738455)
Item 70	July 20, 2021**	For Informational Purposes Only (1757694)
Item 71*	August 17, 2021**	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2016 and 08/31/2021.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF DENTON
RN102095445**

**§
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§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2021-0748-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 Denton (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 with an associated wastewater collection system located at 1100 South Mayhill Road in Denton, Denton 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 on January 15, 2021, an investigator documented that:
 - a. On January 12, 2021, root growth into a manhole located at 6404 Crapemyrtle Drive in Denton, Texas resulted in the discharge of approximately 120,000 gallons of sewage into an unnamed tributary that flows to Pecan Creek; and
 - b. The Respondent did not notify the TCEQ until 42 hours after becoming initially aware of the unauthorized discharge that occurred on January 12, 2021.

3. The Executive Director recognizes that the Respondent completed the following corrective actions:
 - a. By January 14, 2021, notified the TCEQ of the unauthorized discharge that occurred on January 12, 2021.
 - b. By January 19, 2021, the vegetation blocking flow and growing within the manhole was removed and the ditch immediately downstream of the discharge was cleaned and the sewage was vacuumed. Additionally, clean water was added to the tributary to dilute the remaining wastewater.

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. WQ0010027003, Permit Conditions No. 2.g.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to report an unauthorized discharge to the Regional Office within 24 hours of becoming aware of the noncompliance, and in writing to the Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010027003, Monitoring and Reporting Requirements Nos. 7.a and 7.b.i.
4. 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.
5. An administrative penalty in the amount of \$11,812 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$11,812 penalty.

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. 5 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 Denton, Docket No. 2021-0748-MWD-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, clean the sludge approximately 1,000 feet downstream of the stormwater channel which flows to an unnamed tributary located in Denton, Denton County, Texas.
 - b. Within 30 days after the effective date of this Order, update the Facility's operational guidance and conduct employee training to ensure that the unauthorized discharge self-reporting requirements are properly accomplished, in accordance with TPDES Permit No. WQ0010027003, Monitoring and Reporting Requirements No. 7.a and 7.b.i.
 - c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. 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

6/27/2022

For the Executive Director

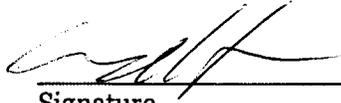
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

2/7/22

Date

Gerard Hudspeth

Name (Printed or typed)

Authorized Representative of
City of Denton

Mayor

Title

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