

Executive Summary – Enforcement Matter – Case No. 60917

City of Kerrville

RN100844802

Docket No. 2021-0795-MLM-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:

MLM – WQ and MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Kerrville Wastewater Plant, 3650 Loop 534, at the end of Beech Street, on the City Farm, in the southeast section of the city, Kerrville, Kerr County

Type of Operation:

Wastewater treatment facility and an associated collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 9, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$20,175

Total Paid to General Revenue: \$20,175

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: November 3, 2020 through December 16, 2020

Date(s) of NOE(s): June 10, 2021

Executive Summary – Enforcement Matter – Case No. 60917
City of Kerrville
RN100844802
Docket No. 2021-0795-MLM-E

Violation Information

1. Failed to notify and obtain written approval from the Executive Director before providing reclaim water to another for use [30 TEX. ADMIN. CODE § 210.4(a)].
2. Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By November 24, 2020, the Respondent collected and disposed of dead fish, pumped sewage back into the collection system, repaired the lift station, and collected and analyzed samples.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, until such time that authorization to provide reclaim water is obtained, cease providing reclaim water from the Facility; and
- b. Within 15 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Taylor Williamson, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2097; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Bill Blackburn, Mayor, City of Kerrville, 701 Main Street, Kerrville, Texas 78028

Dalton Rice, City Manager, City of Kerrville, 701 Main Street, Kerrville, Texas 78028

Respondent's Attorney: Sara R. Thornton, Attorney, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	14-Jun-2021	Screening	17-Jun-2021	EPA Due	
	PCW	23-Jun-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Kerrville				
Reg. Ent. Ref. No.	RN100844802				
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	60917	No. of Violations	2
Docket No.	2021-0795-MLM-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Taylor Williamson
		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	\$15,000
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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	47.0% Adjustment	Subtotals 2, 3, & 7	\$7,050
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Notes	Enhancement for one month of self-reported effluent violations, one NOV with dissimilar violations, and two agreed orders containing a denial of liability.		
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.		
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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	\$561	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	#VALUE!	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,175
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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	\$20,175
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,175
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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.		
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PAYABLE PENALTY	\$20,175
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Screening Date 17-Jun-2021

Docket No. 2021-0795-MLM-E

PCW

Respondent City of Kerrville

Policy Revision 4 (April 2014)

Case ID No. 60917

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100844802

Media Water Quality

Enf. Coordinator Taylor Williamson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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) 47%

>> 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 month of self-reported effluent violations, one NOV with dissimilar violations, and two agreed orders containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 47%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 47%

Screening Date 17-Jun-2021 **Docket No.** 2021-0795-MLM-E **PCW**
Respondent City of Kerrville *Policy Revision 4 (April 2014)*
Case ID No. 60917 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN100844802
Media Water Quality
Enf. Coordinator Taylor Williamson

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

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" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

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" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<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 Kerrville
Case ID No. 60917
Reg. Ent. Reference No. RN100844802
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	18-Nov-2020	24-Nov-2020	0.02	\$12	n/a	\$12

Notes for DELAYED costs

Estimated cost to collect and dispose of dead fish, pump sewage back into the collection system, repair the lift station, and collect and analyze samples. Date required is the date the unauthorized discharge occurred. 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 \$15,000

TOTAL \$12

Screening Date 17-Jun-2021
Respondent City of Kerrville
Case ID No. 60917
Reg. Ent. Reference No. RN100844802
Media Water Quality
Enf. Coordinator Taylor Williamson

Docket No. 2021-0795-MLM-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description
 Failed to notify and obtain written approval from the Executive Director before providing reclaim water to another for use. Specifically, Reuse Authorization No. R10576001 was canceled when Texas Pollutant Discharge Elimination System Permit No. WQ0010576001 expired on February 1, 2020, and the Respondent continued to provide reclaimed water.

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 checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

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 Kerrville
Case ID No. 60917
Reg. Ent. Reference No. RN100844802
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)	\$5,000	1-Feb-2020	13-Apr-2022	2.20	\$549	n/a	\$549

Notes for DELAYED costs

Estimated cost to cease providing reclaim water from the Facility until such time that authorization to provide reclaim water is obtained. Date required is the date the prior authorization was canceled. Final date is the estimated 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

\$5,000

TOTAL

\$549

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 CN600522858, RN100844802, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600522858, City of Kerrville **Classification:** SATISFACTORY **Rating:** 1.50
Regulated Entity: RN100844802, KERRVILLE WASTEWATER PLT **Classification:** SATISFACTORY **Rating:** 3.00
Complexity Points: 9 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: 3650 Loop 534, at the end of Beech Street, on the City Farm, in the southeast section of the City of Kerrville, in Kerr County, Texas
TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

AIR NEW SOURCE PERMITS ACCOUNT NUMBER KF0093C **STORMWATER PERMIT** TXR05CA31
WASTEWATER PERMIT WQ0010576002 **WASTEWATER EPA ID** TX0140481

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

Date Compliance History Report Prepared: June 15, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 15, 2016 to June 15, 2021

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

Name: Stephanie Frederick

Phone: (512) 239--1001

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: 04/07/2020 ADMINORDER 2019-0773-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: Eff. Lim. and Mon. Req. No. 1 PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

- 2 Effective Date: 04/20/2021 ADMINORDER 2020-0718-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter D 305.65
30 TAC Chapter 305, SubChapter F 305.125(2)
Description: Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 22, 2016	(1378989)	Item 26	February 26, 2019	(1544874)
Item 2	September 13, 2016	(1372815)	Item 27	March 18, 2019	(1561346)
Item 3	November 18, 2016	(1384952)	Item 28	May 20, 2019	(1584370)
Item 4	December 19, 2016	(1391086)	Item 29	June 17, 2019	(1584371)
Item 6	February 16, 2017	(1404595)	Item 30	September 13, 2019	(1600047)
Item 7	March 28, 2017	(1418185)	Item 31	September 20, 2019	(1606948)
Item 8	June 15, 2017	(1431821)	Item 32	September 23, 2019	(1613795)
Item 9	July 18, 2017	(1440398)	Item 33	November 12, 2019	(1619606)
Item 10	September 08, 2017	(1456540)	Item 34	December 19, 2019	(1626960)
Item 11	September 14, 2017	(1450683)	Item 35	January 14, 2020	(1634600)
Item 12	November 10, 2017	(1462006)	Item 36	February 21, 2020	(1641215)
Item 13	November 16, 2017	(1475089)	Item 37	March 11, 2020	(1647730)
Item 14	December 18, 2017	(1468390)	Item 38	April 20, 2020	(1654079)
Item 15	February 14, 2018	(1487305)	Item 39	May 18, 2020	(1660651)
Item 16	March 28, 2018	(1490980)	Item 40	June 08, 2020	(1667171)
Item 17	March 29, 2018	(1494226)	Item 41	September 02, 2020	(1693806)
Item 18	May 11, 2018	(1501176)	Item 42	September 19, 2020	(1687467)
Item 19	May 17, 2018	(1514595)	Item 43	November 16, 2020	(1714107)
Item 20	August 22, 2018	(1520651)	Item 44	December 09, 2020	(1714108)
Item 21	September 13, 2018	(1527819)	Item 45	January 11, 2021	(1714109)
Item 22	October 23, 2018	(1534176)	Item 46	February 08, 2021	(1727173)
Item 23	November 14, 2018	(1542010)	Item 47	February 26, 2021	(1727175)
Item 24	January 20, 2019	(1561347)	Item 48	March 20, 2021	(1727174)
Item 25	February 14, 2019	(1572379)			

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.

- Date: 07/31/2020 (1680896)

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
- Date: 03/02/2021 (1691821)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 325, SubChapter A 325.2(b)(4)(B)

6D THSC Chapter 506, SubChapter D 506.006(d)

Description: Failure to submit an Initial Tier II form within 90 days of acquiring one or more hazardous chemicals which meet or exceed the current Tier II threshold.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF KERRVILLE
RN100844802

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-0795-MLM-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 Kerrville (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, represented by Sara Thornton of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C., presented this Order to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 3650 Loop 534, at the end of Beech Street, on the City Farm, in the southeast section of the City of Kerrville, in Kerr County, Texas and an associated collection system (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 November 3, 2020 through December 16, 2020, an investigator documented that:
 - a. Reuse Authorization No. R10576001 was canceled when Texas Pollutant Discharge Elimination System Permit No. WQ0010576001 expired on February 1, 2020, and the Respondent continued to provide reclaim water; and
 - b. On November 18, 2020, an electrical malfunction occurred at the Jefferson Street lift station, discharging approximately 43,596 gallons of sewage from a manhole into Town Creek, which resulted in a fish kill of approximately 350 fish.

3. The Executive Director recognizes that by November 24, 2020, the Respondent collected and disposed of dead fish, pumped sewage back into the collection system, repaired the lift station, and collected and analyzed samples.

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 notify and obtain written approval from the Executive Director before providing reclaim water to another for use, in violation of 30 TEX. ADMIN. CODE § 210.4(a).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
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 \$20,175 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 \$20,175 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 Kerrville, Docket No. 2021-0795-MLM-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. Immediately upon the effective date of this Order, until such time that authorization to provide reclaim water is obtained, cease providing reclaim water from the Facility.
- b. Within 15 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 No. 2.a. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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



For the Executive Director

3/22/2024

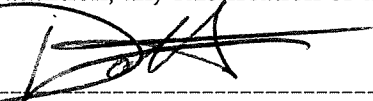
Date

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

3/4/2024

Date

Dalton Rice

Name (Printed or typed)
Authorized Representative of
City of Kerrville

City Manager

Title

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

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