

Executive Summary – Enforcement Matter – Case No. 61109

City of Henderson

RN101612588

Docket No. 2021-0992-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Northside WWTF, 2397 Farm-to-Market Road 782 North, Henderson, Rusk County

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: December 15, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$26,000

Amount Deferred for Expedited Settlement: \$5,200

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$20,800

Name of SEP: WWTP Aeration Upgrade (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: May 4, 2021

Date(s) of NOE(s): July 16, 2021

Executive Summary – Enforcement Matter – Case No. 61109

City of Henderson

RN101612588

Docket No. 2021-0992-MWD-E

Violation Information

Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010187002 expired on March 1, 2021, and the Respondent continued to operate the wastewater treatment facility without authorization [30 TEX. ADMIN. CODE § 305.65 and TEX. WATER CODE § 26.121(a)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented a corrective measure at the Facility by submitting an application for permit renewal on March 29, 2021.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to:
 - a. Immediately, or until such time that authorization to operate is obtained, or until 300 days, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0010187002; and
 - b. Within 300 days, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Madison Stringer, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1126; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

Respondent: The Honorable John Fullen, Mayor, City of Henderson, 400 West Main Street, Henderson, Texas 75652

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	26-Jul-2021			
	PCW	11-Feb-2022	Screening	28-Jul-2021	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Henderson
Reg. Ent. Ref. No.	RN101612588
Facility/Site Region	5-Tyler
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61109	No. of Violations	1
Docket No.	2021-0992-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Madison Stringer
		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	\$25,000
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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	4.0% Adjustment	Subtotals 2, 3, & 7	\$1,000
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Notes: Enhancement for one month of self-reported effluent violation and one NOV with dissimilar violations.

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: \$1,531
 Estimated Cost of Compliance: \$25,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$26,000
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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	\$26,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$26,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$5,200
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$20,800
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Screening Date 28-Jul-2021

Docket No. 2021-0992-MWD-E

PCW

Respondent City of Henderson

Policy Revision 5 (January 28, 2021)

Case ID No. 61109

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101612588

Media Water Quality

Enf. Coordinator Madison Stringer

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	2	4%
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) 4%

>> 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 violation and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 4%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 4%

Screening Date	28-Jul-2021	Docket No.	2021-0992-MWD-E	PCW
Respondent	City of Henderson			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	61109			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101612588			
Media	Water Quality			
Enf. Coordinator	Madison Stringer			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 305.65 and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to maintain authorization to discharge wastewater into or adjacent to any water in the state. Specifically, Texas Pollutant Discharge Elimination System Permit No. WQ0010187002 expired on March 1, 2021, and the Respondent continued to operate the wastewater treatment facility without authorization.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

100% of the rule requirements were not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

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

Violation Base Penalty

Five monthly events are recommended from the permit expiration date (March 1, 2021) to screening date (July 26, 2021).

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 Henderson
Case ID No. 61109
Reg. Ent. Reference No. RN101612588
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	\$25,000	1-Mar-2021	22-May-2022	1.22	\$1,531	n/a	\$1,531
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an application and obtain authorization to discharge wastewater. Date Required is the permit expiration date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25,000

TOTAL

\$1,531

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 CN600690739, RN101612588, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600690739, City of Henderson **Classification:** SATISFACTORY **Rating:** 0.56

Regulated Entity: RN101612588, NORTHSIDE WASTEWATER TREATMENT FACILITY **Classification:** SATISFACTORY **Rating:** 0.18

Complexity Points: 15 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 2397 Farm-to-Market Road 782 North in Rusk County, Texas

TCEQ Region: REGION 05 - TYLER

ID Number(s):
WASTEWATER EPA ID TX0091910 **WASTEWATER** EPA ID TX0141313
WASTEWATER PERMIT WQ0010187003 **STORMWATER** PERMIT TXR05X642

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

Date Compliance History Report Prepared: February 11, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 11, 2017 to February 11, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Katelyn Tubbs **Phone:** (512) 239-2512

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	February 22, 2017	(1394857)	Item 14	February 12, 2018	(1487988)
Item 2	March 10, 2017	(1412402)	Item 15	March 08, 2018	(1491674)
Item 3	April 06, 2017	(1418902)	Item 16	April 09, 2018	(1494922)
Item 4	May 09, 2017	(1426558)	Item 17	May 08, 2018	(1501875)
Item 5	June 12, 2017	(1432558)	Item 18	June 06, 2018	(1508987)
Item 6	July 10, 2017	(1441122)	Item 19	July 16, 2018	(1515307)
Item 7	September 11, 2017	(1451383)	Item 20	August 20, 2018	(1521352)
Item 8	September 12, 2017	(1444793)	Item 21	October 03, 2018	(1528534)
Item 9	October 09, 2017	(1457259)	Item 22	November 09, 2018	(1542725)
Item 10	October 31, 2017	(1448132)	Item 23	December 10, 2018	(1546467)
Item 11	November 13, 2017	(1462707)	Item 24	January 07, 2019	(1563485)
Item 12	December 08, 2017	(1469108)	Item 25	February 28, 2019	(1563483)
Item 13	January 05, 2018	(1475813)			

Item 26	March 11, 2019	(1563484)	Item 43	August 18, 2020	(1670316)
Item 27	May 02, 2019	(1573100)	Item 44	August 19, 2020	(1681587)
Item 28	May 13, 2019	(1585784)	Item 45	September 09, 2020	(1688165)
Item 29	June 11, 2019	(1585785)	Item 46	October 12, 2020	(1694521)
Item 30	July 09, 2019	(1594448)	Item 47	November 09, 2020	(1716171)
Item 31	July 17, 2019	(1635295)	Item 48	December 11, 2020	(1716172)
Item 32	August 13, 2019	(1600741)	Item 49	December 15, 2020	(1716173)
Item 33	September 05, 2019	(1607656)	Item 50	February 04, 2021	(1729244)
Item 34	October 02, 2019	(1614526)	Item 51	April 12, 2021	(1729246)
Item 35	November 12, 2019	(1620315)	Item 52	April 21, 2021	(1752937)
Item 36	December 05, 2019	(1627664)	Item 53	May 13, 2021	(1741919)
Item 37	February 10, 2020	(1641910)	Item 54	June 09, 2021	(1741920)
Item 38	March 04, 2020	(1648424)	Item 55	August 10, 2021	(1758343)
Item 39	April 08, 2020	(1654776)	Item 56	September 20, 2021	(1767620)
Item 40	May 07, 2020	(1661342)	Item 57	October 13, 2021	(1778132)
Item 41	June 16, 2020	(1667869)	Item 58	November 08, 2021	(1784863)
Item 42	July 15, 2020	(1674818)	Item 60	December 13, 2021	(1791895)

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 (1729245)
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: 11/26/2021 (1770232)
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121
TX0091910 PERMIT
WQ0010187002 PERMIT
Description: Failure to prevent an unauthorized discharge of untreated sewage into or adjacent to a surface water in the state.

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 HENDERSON
RN101612588**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2021-0992-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Henderson (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 2397 Farm-to-Market Road 782 North in Rusk County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$26,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$5,200 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to Tex. Water Code § 7.067, \$20,800 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with

all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented a corrective measure at the Facility by submitting an application for permit renewal on March 29, 2021.

II. ALLEGATIONS

During a record review for the Facility conducted on May 4, 2021, an investigator documented that the Respondent failed to maintain authorization to discharge wastewater into or adjacent to any water in the state, in violation of 30 TEX. ADMIN. CODE § 305.65 and TEX. WATER CODE § 26.121(a)(1). Specifically, Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010187002 expired on March 1, 2021, and the Respondent continued to operate the wastewater treatment facility without authorization.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for

violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Henderson, Docket No. 2021-0992-MWD-E" to:

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

2. The Respondent shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$20,800 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. The Respondent shall undertake the following technical requirements:
 - a. Immediately after the effective date of this Order until such time that authorization to operate is obtained or until 300 days after the effective date of this Order, whichever is earlier, comply with the permit limits and conditions of expired TPDES Permit No. WQ0010187002.
 - b. Within 300 days after the effective date of this Order, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. 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:

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

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

4. All relief not expressly granted in this Order is denied.
5. 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.
6. 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.
7. 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 Enforcement Division at the address listed above.
8. 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.
9. 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.

10. 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

1/2/2024

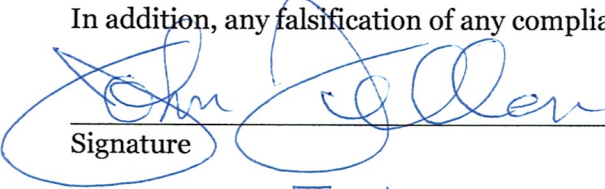
Date

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

Date

11/20/23

John Fuller
Name (Printed or typed)
Authorized Representative of
City of Henderson

Title

MAYOR: City of Henderson
TX

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: 2021-0992-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Henderson
Penalty Amount:	\$20,800
SEP Offset Amount:	\$20,800
Type of SEP:	Compliance
Project Name:	<i>WWTP Aeration Upgrade</i>
Location of SEP:	Rusk County

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

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility (the “Facility”) which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s Facility.

1. Project Description

A. Project

Respondent shall hire a contractor to purchase and install a new aeration unit in the oxidation ditch at the Facility. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for the aeration unit and electrical wiring of the unit (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement or invitation for bids, including publication, related to the SEP must include the enforcement statement as stated below in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be required prior to commencement of the SEP. The Commission’s approval and issuance of this Agreed Order shall not itself be construed to authorize any activity for which Respondent is required by statute or rule to obtain authorization from the Commission.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed below in Subsection C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis,

and severe gastroenteritis. Additional risks include occurrences of low dissolved oxygen, fish kills, algal bloom, and bacterial contamination in waterways.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above in Section 1.A and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project. Costs in excess of the SEP Offset Amount shall not be grounds to relieve Respondent of its obligations to perform this SEP.

Estimated Cost Schedule

Item	Total
Aeration Unit	\$28,500
Electrical Wiring	\$2,500
Total	\$31,000

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 300 days after the effective date of this Agreed Order.

Executive Director (“ED”) staff may grant an extension to any deadline for Respondent’s performance of the SEP described herein, upon a written and substantiated showing of good cause. All requests for extensions must be made by Respondent and shall be made in writing to ED staff. Extensions are not effective until Respondent receives written approval from ED staff. The determination of what constitutes good cause rests solely with ED staff. Extension requests shall be sent to the SEP Coordinator by first class mail or electronic mail, at:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
Email: sepreports@tceq.texas.gov

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to TCEQ describing actions performed to date to implement the Project. Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 300-day timeframe set forth above in Section 2, Performance Schedule. Thereafter, Respondent shall submit progress reports to TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth below in the Reporting Schedule table:

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
300	Notice of SEP completion

B. Final Report

Within 300 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to TCEQ, which shall include the following:

1. An itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. A detailed map showing the specific location of the Project site(s);
7. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
8. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Submittals

Respondent shall submit all SEP reports and any additional information as requested to the SEP Coordinator at the address provided above.

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described above

in Sections 2 through 4, the ED may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to the SEP Coordinator at the address provided above.

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with TCEQ or any other agency of the state or federal government.