

**Executive Summary – Enforcement Matter – Case No. 61674**

**City of Pottsville**

**RN101920072**

**Docket No. 2021-1605-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

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

City of Pottsville WWTF, 219 Reeves Road, Pottsville, Grayson 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:** March 29, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,625

**Amount Deferred for Expedited Settlement:** \$2,325

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

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$9,300

Name of SEP: Inflow and Infiltration Study (Compliance)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**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:** September 28, 2021

**Date(s) of NOE(s):** November 22, 2021

**Executive Summary – Enforcement Matter – Case No. 61674**

**City of Pottsboro**

**RN101920072**

**Docket No. 2021-1605-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for ammonia nitrogen and daily average flow [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements No. 1].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**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, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010591001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Kolby Farren, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2098; 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 Frank Burda, Mayor, City of Pottsboro, P.O. Box 1089, Pottsboro, Texas

Melody Herndon, City Secretary, City of Pottsboro, P.O. Box 1089, Pottsboro, Texas

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

|              |                 |            |                  |            |                |  |
|--------------|-----------------|------------|------------------|------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 6-Dec-2021 | <b>Screening</b> | 9-Dec-2021 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 5-Jan-2022 |                  |            |                |  |

|  |                     |
|--|---------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                     |
| <b>Respondent</b>                      | City of Pottsboro   |
| <b>Reg. Ent. Ref. No.</b>              | RN101920072         |
| <b>Facility/Site Region</b>            | 4-Dallas/Fort Worth |
| <b>Major/Minor Source</b>              | Minor               |

|  |                 |                              |                    |
|--|-----------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                 |                              |                    |
| <b>Enf./Case ID No.</b>                | 61674           | <b>No. of Violations</b>     | 1                  |
| <b>Docket No.</b>                      | 2021-1605-MWD-E | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Water Quality   | <b>Government/Non-Profit</b> | Yes                |
| <b>Multi-Media</b>                     |                 | <b>Enf. Coordinator</b>      | Kolby Farren       |
|  |                 | <b>EC's Team</b>             | Enforcement Team 1 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0             | <b>Maximum</b>               | \$25,000           |

## Penalty Calculation Section

|   |                   |                |
|---|-------------------|----------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | <b>\$7,500</b> |
|---|-------------------|----------------|

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

|                           |                         |                                |                |
|---------------------------|-------------------------|--------------------------------|----------------|
| <b>Compliance History</b> | <b>55.0%</b> Adjustment | <b>Subtotals 2, 3, &amp; 7</b> | <b>\$4,125</b> |
|---------------------------|-------------------------|--------------------------------|----------------|

Notes: Enhancement for ten months of self-reported effluent violations and one NOV with same/similar violations.

|                    |    |                         |                   |            |
|--------------------|----|-------------------------|-------------------|------------|
| <b>Culpability</b> | No | <b>0.0%</b> Enhancement | <b>Subtotal 4</b> | <b>\$0</b> |
|--------------------|----|-------------------------|-------------------|------------|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |            |
|--|-------------------|------------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | <b>\$0</b> |
|--|-------------------|------------|

|                         |                          |                   |            |
|-------------------------|--------------------------|-------------------|------------|
| <b>Economic Benefit</b> | <b>0.0%</b> Enhancement* | <b>Subtotal 6</b> | <b>\$0</b> |
|-------------------------|--------------------------|-------------------|------------|

Total EB Amounts: \$1,432  
 Estimated Cost of Compliance: \$10,000  
 \*Capped at the Total EB \$ Amount

|                             |                       |                 |
|-----------------------------|-----------------------|-----------------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | <b>\$11,625</b> |
|-----------------------------|-----------------------|-----------------|

|   |                        |            |
|---|------------------------|------------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | <b>0.0%</b> Adjustment | <b>\$0</b> |
|---|------------------------|------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: N/A

|                             |                 |
|-----------------------------|-----------------|
| <b>Final Penalty Amount</b> | <b>\$11,625</b> |
|-----------------------------|-----------------|

|                                   |                               |                 |
|-----------------------------------|-------------------------------|-----------------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | <b>\$11,625</b> |
|-----------------------------------|-------------------------------|-----------------|

|                 |                        |                   |                 |
|-----------------|------------------------|-------------------|-----------------|
| <b>DEFERRAL</b> | <b>20.0%</b> Reduction | <b>Adjustment</b> | <b>-\$2,325</b> |
|-----------------|------------------------|-------------------|-----------------|

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

|                        |                |
|------------------------|----------------|
| <b>PAYABLE PENALTY</b> | <b>\$9,300</b> |
|------------------------|----------------|

**Screening Date** 9-Dec-2021

**Docket No.** 2021-1605-MWD-E

**PCW**

**Respondent** City of Pottsboro

Policy Revision 5 (January 28, 2021)

**Case ID No.** 61674

PCW Revision February 11, 2021

**Reg. Ent. Reference No.** RN101920072

**Media** Water Quality

**Enf. Coordinator** Kolby Farren

### 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> )  | 11     | 55%     |
|                               | Other written NOVs   | 0      | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 0      | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0      | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )                               | 0      | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0      | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0      | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0      | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0      | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0      | 0%      |
| Other                         | Environmental management systems in place for one year or more   | No     | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No     | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No     | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No     | 0%      |

**Adjustment Percentage (Subtotal 2)** 55%

#### >> 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 ten months of self-reported effluent violations and one NOV with same/similar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 55%

|                                |  |                     |                 |   |
|--------------------------------|--|---------------------|-----------------|---|
| <b>Screening Date</b>          | 9-Dec-2021   | <b>Docket No.</b>   | 2021-1605-MWD-E | <b>PCW</b>                                  |
| <b>Respondent</b>              | City of Pottsville   |                     |                 | <i>Policy Revision 5 (January 28, 2021)</i> |
| <b>Case ID No.</b>             | 61674  |                     |                 | <i>PCW Revision February 11, 2021</i>       |
| <b>Reg. Ent. Reference No.</b> | RN101920072  |                     |                 |   |
| <b>Media</b>                   | Water Quality  |                     |                 |   |
| <b>Enf. Coordinator</b>        | Kolby Farren   |                     |                 |   |
| <b>Violation Number</b>        | 1  |                     |                 |   |
| <b>Rule Cite(s)</b>            | 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements No. 1 |                     |                 |   |
| <b>Violation Description</b>   | Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.   |                     |                 |   |
|                                |  | <b>Base Penalty</b> | \$25,000        |   |

**>> Environmental, Property and Human Health Matrix**

|           |                |             |          |       |                      |
|-----------|----------------|-------------|----------|-------|----------------------|
| <b>OR</b> |                | <b>Harm</b> |          |       |                      |
|           | <b>Release</b> | Major       | Moderate | Minor |                      |
|           | Actual         |             |          | X     |                      |
|           | Potential      |             |          |       | <b>Percent</b> 15.0% |

**>> Programmatic Matrix**

|  |               |       |          |       |                     |
|--|---------------|-------|----------|-------|---------------------|
|  | Falsification | Major | Moderate | Minor |                     |
|  |               |       |          |       | <b>Percent</b> 0.0% |

**Matrix Notes**

A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amount of pollutants exceeded levels protective of human health or the environment. Flow was also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$21,250

\$3,750

**Violation Events**

Number of Violation Events        Number of violation days

|              |   |  |
|--------------|---|--|
| daily        |   |  |
| weekly       |   |  |
| monthly      |   |  |
| quarterly    | X |  |
| semiannual   |   |  |
| annual       |   |  |
| single event |   |  |

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

Two quarterly events are recommended for the quarters containing the monthly monitoring periods of March, April, May, and June 2021.

**Good Faith Efforts to Comply**  Reduction \$0

|               |                |                                   |
|---------------|----------------|-----------------------------------|
|               | Before NOE/NOV | NOE/NOV to EDPRP/Settlement Offer |
| Extraordinary |                |                                   |
| Ordinary      |                |                                   |
| N/A           | X              |                                   |

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

**Violation Subtotal** \$7,500

|   |   |
|---|---|
| <b>Economic Benefit (EB) for this violation</b>                             | <b>Statutory Limit Test</b>                   |
| <b>Estimated EB Amount</b> \$1,432  | <b>Violation Final Penalty Total</b> \$11,625 |
| <b>This violation Final Assessed Penalty (adjusted for limits)</b> \$11,625 |   |

## Economic Benefit Worksheet

**Respondent** City of Pottsboro  
**Case ID No.** 61674  
**Reg. Ent. Reference No.** RN101920072  
**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 |
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|-------------|-----------|

### Delayed Costs

|                          |          |             |            |      |         |     |         |
|--------------------------|----------|-------------|------------|------|---------|-----|---------|
| Equipment                |          |             |            | 0.00 | \$0     | \$0 | \$0     |
| Buildings                |          |             |            | 0.00 | \$0     | \$0 | \$0     |
| Other (as needed)        |          |             |            | 0.00 | \$0     | \$0 | \$0     |
| Engineering/Construction |          |             |            | 0.00 | \$0     | \$0 | \$0     |
| Land                     |          |             |            | 0.00 | \$0     | n/a | \$0     |
| Record Keeping System    |          |             |            | 0.00 | \$0     | n/a | \$0     |
| Training/Sampling        |          |             |            | 0.00 | \$0     | n/a | \$0     |
| Remediation/Disposal     |          |             |            | 0.00 | \$0     | n/a | \$0     |
| Permit Costs             |          |             |            | 0.00 | \$0     | n/a | \$0     |
| Other (as needed)        | \$10,000 | 31-Mar-2021 | 9-Feb-2024 | 2.86 | \$1,432 | n/a | \$1,432 |

**Notes for DELAYED costs**

Estimated Other cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, 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

\$10,000

**TOTAL**

\$1,432

City of Pottsville  
Docket No. 2021-1605-MWD-E  
TPDES Permit No. WQ0010591001  
Case No. 61674

Effluent Violation Table

|                   | Ammonia Nitrogen            |                       | Flow             |
|-------------------|-----------------------------|-----------------------|------------------|
|                   | Daily Average Concentration | Daily Average Loading | Daily Average    |
| Monitoring Period | Limit = 3 mg/L              | Limit = 8.8 lbs/day   | Limit = 0.35 MGD |
| March 2021        | 5.1                         | 10.43                 | c                |
| April 2021        | 7.95                        | 12.85                 | c                |
| May 2021          | 3.18                        | 12.2                  | 0.466            |
| June 2021         | c                           | c                     | 0.403            |

mg/L = milligrams per liter

lbs/day = pounds per day

MGD = million gallons per day

c = compliant

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# Compliance History Report

Compliance History Report for CN600662860, RN101920072, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

NULL

**Customer, Respondent, or Owner/Operator:** CN600662860, City of Pottsboro

**Classification:** SATISFACTORY

**Rating:** 2.81

**Regulated Entity:** RN101920072, CITY OF POTTSBORO

**Classification:** SATISFACTORY

**Rating:** 5.63

**Complexity Points:** 4

**Repeat Violator:** NO

**CH Group:** 08 - Sewage Treatment Facilities

**Location:** located at 219 Reeves Road, Pottsboro, in Grayson County, Texas 75076

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**WASTEWATER PERMIT** WQ0010591001

**WASTEWATER EPA ID** TX0068756

**Compliance History Period:** September 01, 2017 to August 31, 2022

**Rating Year:** 2022

**Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** January 31, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 31, 2018 to January 31, 2023

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

**Name:** Cecilio Banuelos

**Phone:** (956) 389-7421

## 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 20, 2018  | (1487577) | Item 13 | April 16, 2019     | (1572652) |
| Item 2  | April 25, 2018     | (1494506) | Item 14 | May 16, 2019       | (1584913) |
| Item 3  | May 16, 2018       | (1501453) | Item 15 | July 12, 2019      | (1594002) |
| Item 4  | June 19, 2018      | (1508544) | Item 16 | September 18, 2019 | (1607215) |
| Item 5  | July 16, 2018      | (1514874) | Item 17 | October 14, 2019   | (1614067) |
| Item 6  | August 17, 2018    | (1520928) | Item 18 | November 14, 2019  | (1619878) |
| Item 7  | September 18, 2018 | (1528109) | Item 19 | December 12, 2019  | (1627239) |
| Item 8  | October 15, 2018   | (1534452) | Item 20 | January 14, 2020   | (1634875) |
| Item 9  | December 18, 2018  | (1546054) | Item 21 | May 14, 2020       | (1660916) |
| Item 10 | January 15, 2019   | (1562199) | Item 22 | July 15, 2020      | (1674398) |
| Item 11 | February 18, 2019  | (1562197) | Item 23 | August 26, 2020    | (1681173) |
| Item 12 | March 14, 2019     | (1562198) | Item 24 | September 14, 2020 | (1687742) |



|         |                   |           |         |                   |           |
|---------|-------------------|-----------|---------|-------------------|-----------|
| Item 25 | October 15, 2020  | (1694088) | Item 28 | January 15, 2021  | (1714923) |
| Item 26 | November 13, 2020 | (1714921) | Item 29 | February 18, 2021 | (1727986) |
| Item 27 | December 15, 2020 | (1714922) | Item 30 | March 15, 2021    | (1727987) |

**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: 01/31/2022 (1807139)  
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: 02/10/2022 (1781026)  
Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
TX0068756 PERMIT  
WQ0010591001 PERMIT  
Description: Failure to prevent the unauthorized discharge of wastewater.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Monitoring and Reporting Requirements PERMIT  
Description: Failure to provide notification of any effluent violation which deviates from the permitted effluent limitation by more than 40%.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
TX0068759 PERMIT  
WQ0010591001 PERMIT  
Description: Failed to properly operate and maintain the lift station.
  
- 3 Date: 02/28/2022 (1814205)  
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
  
- 4 Date: 03/31/2022 (1820778)  
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
  
- 5 Date: 04/30/2022 (1829610)  
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
  
- 6 Date: 05/31/2022 (1835907)  
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
  
- 7 Date: 06/30/2022 (1843108)  
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
  
- 8 Date: 07/31/2022 (1849276)  
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                               |                          |
| 9  | Date:        | 08/31/2022 (1857038)   |                          |
|    | Self Report? | YES  | Classification: Moderate |
|    | Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                          |
|    | Description: | Failure to meet the limit for one or more permit parameter                               |                          |
| 10 | Date:        | 09/30/2022 (1863395)   |                          |
|    | Self Report? | YES  | Classification: Moderate |
|    | Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1) |                          |
|    | Description: | Failure to meet the limit for one or more permit parameter                               |                          |
| 11 | Date:        | 10/31/2022 (1870307)   |                          |
|    | Self Report? | YES  | Classification: Moderate |
|    | Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF POTTSBORO  
RN101920072

§           BEFORE THE  
§           TEXAS COMMISSION ON  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-1605-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 Pottsboro (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 219 Reeves Road, Pottsboro, Grayson 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 \$11,625 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$2,325 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, \$9,300 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.

## II. ALLEGATIONS

During a record review for the Facility conducted on September 28, 2021, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010591001, Interim Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below.

| Effluent Violation Table |                             |                        |                     |
|--------------------------|-----------------------------|------------------------|---------------------|
|                          | Ammonia Nitrogen            |                        | Flow                |
|                          | Daily Average Concentration | Daily Average Loading  | Daily Average       |
| Monitoring Period        | Limit =<br>3 mg/L           | Limit =<br>8.8 lbs/day | Limit =<br>0.35 MGD |
| March 2021               | 5.1                         | 10.43                  | c                   |
| April 2021               | 7.95                        | 12.85                  | c                   |
| May 2021                 | 3.18                        | 12.2                   | 0.466               |
| June 2021                | c                           | c                      | 0.403               |

mg/L = milligrams per liter  
MGD = million gallons per day

lbs/day = pounds per day  
c = compliant

### 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 Pottsboro, Docket No. 2021-1605-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 \$9,300 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, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010591001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, and 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:

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

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. 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.
7. 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.
8. 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.

9. 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

-----  
5/30/2024

-----  
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.

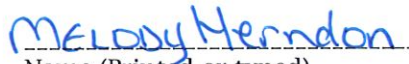
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

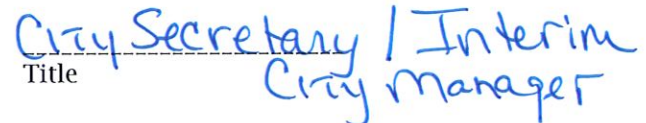
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic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

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

  
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Signature

  
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Date

  
-----  
Name (Printed or typed)  
Authorized Representative of  
City of Pottsboro

  
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Title

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

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



**Attachment A**

**Docket Number: 2021-1605-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                           |                                      |
|---------------------------|--------------------------------------|
| <b>Respondent:</b>        | City of Pottsboro                    |
| <b>Penalty Amount:</b>    | \$9,300                              |
| <b>SEP Offset Amount:</b> | \$9,300                              |
| <b>Type of SEP:</b>       | Compliance                           |
| <b>Project Name:</b>      | <i>Inflow and Infiltration Study</i> |
| <b>Location of SEP:</b>   | Grayson County                       |

The Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order in exchange for Respondent’s performance of a Supplemental Environmental Project (“SEP”). 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 the collection system for 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 perform a video line inspection of the collection system sanitary lines extending from the influent lift station to the south along the creek. Inspecting the collection system sanitary lines will help maintain a properly functioning system and identify any pipeline integrity issues or any areas of inflow and infiltration. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for the inflow and infiltration study (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 prevention of inflow and infiltration (where unauthorized water is entering the sewer system). Inflow and infiltration could lead to high flows and discharge of inadequately treated wastewater during storm events.

*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**

| <b>Item</b>                             | <b>Total</b>   |
|---|----------------|
| Video Line Inspection of Sanitary Lines | \$9,300        |
| <b>Total</b>                            | <b>\$9,300</b> |

**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 130 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](mailto: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 130-day timeframe set forth above in Section 2, Performance Schedule.

### 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                  |
| 130                            | Notice of SEP completion   |

#### *B. Final Report*

Within 130 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. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
8. 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.