

Executive Summary – Enforcement Matter – Case No. 61841

City of Portland

RN103016416

Docket No. 2022-0129-MWD-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:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Portland Plant 1, 1095 Moore Avenue, Portland, San Patricio 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: August 16, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$279,625

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$279,625

Name of SEP: WWTF Improvements (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: November 24, 2021

Date(s) of NOE(s): January 19, 2022

Executive Summary – Enforcement Matter – Case No. 61841
City of Portland
RN103016416
Docket No. 2022-0129-MWD-E

Violation Information

1. Failed to comply with permitted effluent limitations for 2-hour peak flow, total suspended solids, biochemical oxygen demand (5-day), and *Enterococci* [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010478001, Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to submit the proposed Toxicity Reduction Evaluation outline within 45 days of significant lethality being demonstrated [30 TEX. ADMIN. CODE § 305.125(18) and TPDES Permit No. WQ0010478001, Chronic Biomonitoring Requirements: Marine, No. 5.a].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

a. On February 14, 2022, submitted the general outline for initiating a Toxicity Reduction Evaluation; and

b. By January 31, 2024, implemented corrective measures at the Facility and achieved compliance with all permitted effluent limitations in TPDES Permit No. WQ0010478001.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Harley Hobson, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1337; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

Respondent: The Honorable Cathy Skurow, Mayor, City of Portland, 1900 Billy G. Webb Drive, Portland, Texas 78374

Randy Wright, City Manager, City of Portland, 1900 Billy G. Webb Drive, Portland, Texas 78374

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	24-Jan-2022	Screening	25-Jan-2022	EPA Due	5-Mar-2022
	PCW	31-May-2024				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Portland
Reg. Ent. Ref. No.	RN103016416
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61841	No. of Violations	4
Docket No.	2022-0129-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harley Hobson
		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	\$207,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	35.0% Adjustment	Subtotals 2, 3, & 7	\$72,625
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Notes	Enhancement for three months of self-reported effluent violations and one order 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	-\$500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,067	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$25,025	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$279,625
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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	
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Final Penalty Amount	\$279,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$279,625
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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	\$279,625
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Screening Date 25-Jan-2022

Docket No. 2022-0129-MWD-E

PCW

Respondent City of Portland

Policy Revision 5 (January 28, 2021)

Case ID No. 61841

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN103016416

Media Water Quality

Enf. Coordinator Harley Hobson

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>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 35%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three months of self-reported effluent violations and one order containing a denial of liability.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 35%

Screening Date 25-Jan-2022
Respondent City of Portland
Case ID No. 61841
Reg. Ent. Reference No. RN103016416
Media Water Quality
Enf. Coordinator Harley Hobson

Docket No. 2022-0129-MWD-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010478001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	X			100.0%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. Enterococci, Flow, and total suspended solids were also considered. Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$0

\$25,000

Violation Events

Number of Violation Events 6 181 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150,000

Six monthly events are recommended for the months of November 2020 and January, February, March, April, and July 2021.

Good Faith Efforts to Comply

0.0%

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 \$150,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,065

Violation Final Penalty Total \$202,500

This violation Final Assessed Penalty (adjusted for limits) \$202,500

Economic Benefit Worksheet

Respondent City of Portland
Case ID No. 61841
Reg. Ent. Reference No. RN103016416
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)	\$25,000	31-Oct-2020	31-Jan-2024	3.25	\$4,065	n/a	\$4,065

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. The Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$25,000

TOTAL \$4,065

Screening Date 25-Jan-2022 **Docket No.** 2022-0129-MWD-E **PCW**
Respondent City of Portland *Policy Revision 5 (January 28, 2021)*
Case ID No. 61841 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103016416
Media Water Quality
Enf. Coordinator Harley Hobson

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010478001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		50.0%
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes
 A simplified model was used to evaluate carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. Enterococci, Flow, and total suspended solids were also considered. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$12,500

\$12,500

Violation Events

Number of Violation Events 3 92 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$37,500

Three monthly events are recommended for the months of May, June, and August 2021.

Good Faith Efforts to Comply 0.0% 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 \$37,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$50,625

This violation Final Assessed Penalty (adjusted for limits) \$50,625

Economic Benefit Worksheet

Respondent City of Portland
Case ID No. 61841
Reg. Ent. Reference No. RN103016416
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)				0.00	\$0	n/a	\$0

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 captured in Economic Benefit Worksheet No. 1.

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

TOTAL

Screening Date 25-Jan-2022 **Docket No.** 2022-0129-MWD-E **PCW**
Respondent City of Portland *Policy Revision 5 (January 28, 2021)*
Case ID No. 61841 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103016416
Media Water Quality
Enf. Coordinator Harley Hobson

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010478001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes 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 \$17,500

\$7,500

Violation Events

Number of Violation Events 2 92 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two quarterly events are recommended for the quarters containing the months of October 2020, December 2020, and September 2021.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$20,250

This violation Final Assessed Penalty (adjusted for limits) \$20,250

Economic Benefit Worksheet

Respondent City of Portland
Case ID No. 61841
Reg. Ent. Reference No. RN103016416
Media Violation No. Water Quality
 3

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)				0.00	\$0	n/a	\$0

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 captured in Economic Benefit Worksheet No. 1.

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 \$0

TOTAL \$0

Screening Date 25-Jan-2022 **Docket No.** 2022-0129-MWD-E **PCW**
Respondent City of Portland *Policy Revision 5 (January 28, 2021)*
Case ID No. 61841 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN103016416
Media Water Quality
Enf. Coordinator Harley Hobson

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 305.125(18) and TPDES Permit No. WQ0010478001, Chronic Biomonitoring Requirements: Marine, No. 5.a
Violation Description Failed to submit the proposed Toxicity Reduction Evaluation ("TRE") outline within 45 days of significant lethality being demonstrated. Specifically, the Respondent failed to submit a general outline for initiating a TRE within 45 days of retesting.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		X			20.0%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$20,000

\$5,000

Violation Events

Number of Violation Events 1 508 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$5,000

One single event is recommended.

Good Faith Efforts to Comply 10.0% Reduction \$500

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

Notes The Respondent returned to compliance on February 14, 2022.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$2 **Violation Final Penalty Total** \$6,250

This violation Final Assessed Penalty (adjusted for limits) \$6,250

Economic Benefit Worksheet

Respondent City of Portland
Case ID No. 61841
Reg. Ent. Reference No. RN103016416
Media Water Quality
Violation No. 4

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)	\$25	4-Sep-2020	14-Feb-2022	1.45	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit the general outline for initiating a TRE. The Date Required is the Proposed TRE due date. The 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

\$25

TOTAL

\$2

City of Portland
Docket No. 2022-0129-MWD-E
TPDES Permit No. WQ0010478001
Case No. 61841

Effluent Violation Table

Monitoring Period	BOD5 Daily Avg. Conc.	BOD5 Daily Max. Conc.	BOD5 Daily Avg. Load.	Enterococci Daily Avg. Conc.	Enterococci Daily Max. Conc.	Flow 2-hour Peak	TSS Daily Avg. Conc.	TSS Daily Max. Conc.	TSS Daily Avg. Load.
Limits =	20 mg/L	45 mg/L	417 lbs/day	14 CFU/100mL	35 CFU/100mL	5,208 gpm	20 mg/L	45 mg/L	417 lbs/day
October 2020	c	c	c	c	249.3	c	c	c	c
November 2020	c	c	c	1,482.51	2,419.6	c	c	c	c
December 2020	c	c	c	25.78	145.7	c	c	c	c
January 2021	c	c	c	49.37	2,419.6	c	c	c	c
February 2021	c	c	c	154.43	2,419.6	c	c	c	c
March 2021	c	c	c	315.44	2,419.6	c	c	c	c
April 2021	25.4	c	c	2,135.49	2,419.6	c	c	c	c
May 2021	20.8	52	c	114.98	361.3	6,972	c	c	c
June 2021	27.7	c	422.8	43.7	410.6	5,637	21.4	c	c
July 2021	c	c	c	128.66	2,419.6	c	c	c	417.8
August 2021	25.6	c	c	231.76	613.7	c	20.2	62	c
September 2021	c	c	c	117.81	299.3	c	c	c	c

Avg. = average Conc. = concentration Max. = Maximum Load. = loading c = compliant
gpm = gallons per minute lbs/day = pounds per day mg/L = milligrams per liter
CFU/100mL = colony forming units per 100 milliliters TSS = totals suspended solids
BOD5 = biochemical oxygen demand (5-day)



Compliance History Report

Compliance History Report for CN600336150, RN103016416, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600336150, City of Portland **Classification:** SATISFACTORY **Rating:** 2.00

Regulated Entity: RN103016416, CITY OF PORTLAND PLANT 1 **Classification:** SATISFACTORY **Rating:** 2.90

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

CH Group: 08 - Sewage Treatment Facilities

Location: 1095 Moore Avenue in Portland, San Patricio County, Texas

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

MUNICIPAL SOLID WASTE PROCESSING REGISTRATION 120195	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 79613
STORMWATER PERMIT TXR05ED69	WASTEWATER PERMIT WQ0010478001
WASTEWATER EPA ID TX0055433	

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: December 15, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 15, 2018 to December 15, 2023

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

Name: Harley Hobson

Phone: (512) 239-1337

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: 05/07/2019 ADMINORDER 2018-1558-WQ-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
Description: Field Citation - Failure to obtain a Multi Sector General permit (Stormwater).

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 18, 2018	(1545895)	Item 10	November 06, 2019	(1619719)
Item 2	February 18, 2019	(1561699)	Item 11	December 06, 2019	(1627083)
Item 3	March 18, 2019	(1561700)	Item 12	November 22, 2022	(1870150)
Item 4	April 14, 2019	(1572491)	Item 13	February 20, 2023	(1890631)
Item 5	May 14, 2019	(1584596)	Item 14	March 17, 2023	(1899196)
Item 6	June 11, 2019	(1584597)	Item 15	April 20, 2023	(1906000)
Item 7	July 17, 2019	(1593831)	Item 16	May 19, 2023	(1913158)
Item 8	September 19, 2019	(1607058)	Item 17	August 17, 2023	(1933690)
Item 9	October 16, 2019	(1613908)	Item 18	September 21, 2023	(1939834)

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: 12/31/2022 (1882819)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 05/31/2023 (1919766)
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
- 3 Date: 06/30/2023 (1926731)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PORTLAND
RN103016416

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0129-MWD-E

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

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

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

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 1095 Moore Avenue in Portland, San Patricio County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review for the Facility conducted on November 24, 2021, an investigator documented that:
 - a. The Respondent failed to comply with permitted effluent limitations, as shown in the effluent violation table below:

Effluent Violation Table									
Monitoring Period	BOD5 Daily Avg. Conc.	BOD5 Daily Max. Conc.	BOD5 Daily Avg. Load.	<i>Enterococci</i> Daily Avg. Conc.	<i>Enterococci</i> Daily Max. Conc.	Flow 2-hour Peak	TSS Daily Avg. Conc.	TSS Daily Max. Conc.	TSS Daily Avg. Load.
Limits =	20 mg/L	45 mg/L	417 lbs/day	14 CFU/100 mL	35 CFU/100 mL	5,208 gpm	20 mg/L	45 mg/L	417 lbs/day
October 2020	c	c	c	c	249.3	c	c	c	c
November 2020	c	c	c	1,482.51	2,419.6	c	c	c	c
December 2020	c	c	c	25.78	145.7	c	c	c	c
January 2021	c	c	c	49.37	2,419.6	c	c	c	c
February 2021	c	c	c	154.43	2,419.6	c	c	c	c
March 2021	c	c	c	315.44	2,419.6	c	c	c	c
April 2021	25.4	c	c	2,135.49	2,419.6	c	c	c	c
May 2021	20.8	52	c	114.98	361.3	6,972	c	c	c
June 2021	27.7	c	422.8	43.7	410.6	5,637	21.4	c	c
July 2021	c	c	c	128.66	2,419.6	c	c	c	417.8
August 2021	25.6	c	c	231.76	613.7	c	20.2	62	c
September 2021	c	c	c	117.81	299.3	c	c	c	c

Avg. = average Conc. = concentration Max. = Maximum Load. = loading c = compliant
gpm = gallons per minute lbs/day = pounds per day mg/L = milligrams per liter
CFU/100 mL = colony forming units per 100 milliliters TSS = totals suspended solids
BOD5 = biochemical oxygen demand (5-day)

- b. Respondent failed to submit a general outline for initiating a Toxicity Reduction Evaluation ("TRE") within 45 days of retesting.
3. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
 - a. On February 14, 2022, submitted the general outline for initiating a TRE; and
 - b. By January 31, 2024, implemented corrective measures at the Facility and achieved compliance with all permitted effluent limitations in Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010478001.

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 comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TPDES Permit No. WQ0010478001, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to submit the proposed TRE outline within 45 days of significant lethality being demonstrated, in violation of 30 TEX. ADMIN. CODE § 305.125(18) and TPDES Permit No. WQ0010478001, Chronic Biomonitoring Requirements: Marine, No. 5.a.
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 \$279,625 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$279,625 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.

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 Portland, Docket No. 2022-0129-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 II, Conclusion of Law No. 5. The amount of \$279,625 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. 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. 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.
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 in this Order.
7. 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.
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

8/15/2024


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

7/26/2024

Date

RANDY WRIGHT

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

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.

Attachment A

Docket Number: 2022-0129-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Portland
Penalty Amount:	\$279,625
SEP Offset Amount:	\$279,625
Type of SEP:	Compliance
Project Name:	<i>WWTF Improvements</i>
Location of SEP:	San Patricio 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”).

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.

1. Project Description

A. Project

Respondent hired an engineering firm to perform an evaluation study to identify performance and operational concerns that impact permit limits at the Facility. Based on the evaluation study, a new blower was purchased to provide adequate oxygen and aeration at the Facility. Additionally, sludge was removed and properly disposed of from the Facility. Specifically, the SEP Offset Amount was used for materials, supplies, and equipment for an evaluation study, blower purchase, and sludge removal (the “Project”). Respondent hired qualified engineers and contractors to perform the Project. The SEP was performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent used 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. Expenses. No portion of the SEP Offset Amount was 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 had no prior commitment to perform this Project and that the SEP was 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. Expenses

Respondent spent at least the SEP Offset Amount to complete the project described in Section 1.A, above, and complied with all other provisions of this SEP. Respondent understood that it may have costs more than the SEP Offset Amount to complete the Project.

Expenses

Item	Total
Evaluation Study	\$24,975.00
Blower Purchase	\$157,380.00
Sludge Removal and Disposal	\$121,777.92
Total	\$304,132.92

2. Records

As of February 12, 2024, Respondent provided TCEQ the following documentation as proof of completion of the proposed SEP:

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 2.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 2.1., above;
4. A certified statement of SEP completion and document authentication;
5. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
6. A detailed map showing the specific location of the project site(s); and
7. Photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project.

3. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff and shall allow immediate (i.e., within 24 hours) 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.

4. 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 in Sections 2 and 3 above, the Executive Director (“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 below:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this 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.

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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