

Executive Summary – Enforcement Matter – Case No. 62468
McMullen County Water Control and Improvement District No. 1 and McMullen
County
RN101919611
Docket No. 2022-0720-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Tilden WWTP, located adjacent to the west side of State Highway 16 and immediately south of the intersection of State Highway 16 and Farm-to-Market Road 72, Tilden, McMullen 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: November 10, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,937

Amount Deferred for Expedited Settlement: \$2,587

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$10,350

Name of SEP: Lift Station Pump Replacement (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: April 29, 2022

Date(s) of NOE(s): May 26, 2022

Executive Summary – Enforcement Matter – Case No. 62468
McMullen County Water Control and Improvement District No. 1 and McMullen
County
RN101919611
Docket No. 2022-0720-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids and ammonia nitrogen [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014945001, 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 Respondents to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondents to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014945001, 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: Madison Stringer, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1126; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Adena Crider, SEP Coordinator, Litigation Division, MC 219, (512) 239-0648

Respondent: Alan Brown, District Manager, McMullen County Water Control and Improvement District No. 1 and McMullen County, P.O. Box 4, Tilden, Texas 78072
The Honorable James E. Teal, County Judge, McMullen County Water Control and Improvement District No. 1 and McMullen County, P.O. Box 4, Tilden, Texas 78072

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	6-Jun-2022	Screening	7-Jun-2022	EPA Due	
	PCW	14-Jun-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	McMullen County Water Control and Improvement District No. 1 and McMullen County		
Reg. Ent. Ref. No.	RN101919611		
Facility/Site Region	16-Laredo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	62468	No. of Violations	1
Docket No.	2022-0720-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Madison Stringer
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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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	15.0%	Adjustment	Subtotals 2, 3, & 7	\$1,687	
Notes	Enhancement for three self-reported effluent violations.				
Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
Notes	The Respondents do not meet the culpability criteria.				
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0	
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0	
Total EB Amounts	\$764	*Capped at the Total EB \$ Amount			
Estimated Cost of Compliance	\$5,000				

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,937
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
Final Penalty Amount	\$12,937

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,937
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,587
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$10,350
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Screening Date	7-Jun-2022	Docket No.	2022-0720-MWD-E	PCW
Respondent	McMullen County Water Control and Improvement District No. 1 and			
Case ID No.	McMullen County			<i>Policy Revision 5 (January 28, 2021)</i>
Reg. Ent. Reference No.	62468			<i>PCW Revision February 11, 2021</i>
Media	Water Quality			
Enf. Coordinator	Madison Stringer			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	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>)	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) 15%

>> 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 self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 15%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 15%

Screening Date	7-Jun-2022	Docket No.	2022-0720-MWD-E	PCW
Respondent	McMullen County Water Control and Improvement District No. 1 and	<i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>		
Case ID No.	McMullen County			
Reg. Ent. Reference No.	62468			
Media	RN101919611			
Enf. Coordinator	Water Quality			
Violation Number	Madison Stringer			
Rule Cite(s)	<div style="border: 1px solid black; padding: 5px;"> Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014945001, Effluent Limitations and Monitoring Requirements No. 1 </div>			
Violation Description	<div style="border: 1px solid black; padding: 5px;"> Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table. </div>			
Base Penalty		\$25,000		

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes: A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Chlorine residual, flow, and total suspended solids were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants which 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	3		151	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			

Three quarterly events are recommended, calculated for the quarters containing the monthly monitoring periods of January 2021, February 2021, July 2021, September 2021, and December 2021.

Violation Base Penalty \$11,250

Good Faith Efforts to Comply

	0.0%		
	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	X		
Notes	The Respondents do not meet the good faith criteria for this violation.		

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$764	Violation Final Penalty Total \$12,938
This violation Final Assessed Penalty (adjusted for limits) \$12,938	

Economic Benefit Worksheet

Respondent McMullen County Water Control and Improvement District No. 1 and McMullen County
Case ID No. 62468
Reg. Ent. Reference No. RN101919611
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)	\$5,000	31-Jan-2021	20-Feb-2024	3.05	\$764	n/a	\$764

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. 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

\$5,000

TOTAL

\$764

McMullen County Water Control and Improvement District No. 1 and McMullen County
TPDES Permit No. WQ0014945001
Docket No. 2022-0720-MWD-E

Effluent Violation Table

Monitoring Period	Total Suspended Solids Daily Average Concentration Limit = 15 mg/L	Total Suspended Solids Single Grab Concentration Limit = 60 mg/L	Ammonia Nitrogen Daily Average Concentration Limit = 3 mg/L	Ammonia Nitrogen Single Grab Concentration Limit = 15 mg/L
January 2021	41	100	C	C
February 2021	16	C	C	C
July 2021	C	C	4.15	16.3
September 2021	C	C	4.82	20.4
December 2021	C	C	4.66	C

mg/L = milligrams per liter

C = compliant



Compliance History Report

Compliance History Report for CN600900955, RN101919611, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600900955, McMullen County **Classification:** SATISFACTORY **Rating:** 1.27

Regulated Entity: RN101919611, TILDEN WASTEWATER TREATMENT PLANT **Classification:** SATISFACTORY **Rating:** 2.00

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: adjacent to the west side of State Highway 16 and immediately south of the intersection of State Highway 16 and Farm-to-Market Road 72 in McMullen County, Texas

TCEQ Region: REGION 16 - LAREDO

ID Number(s):
WASTEWATER EPA ID TX0107646 **WASTEWATER** AUTHORIZATION R14945001
WASTEWATER PERMIT WQ0014945001 **WASTEWATER** EPA ID TX0132675
WASTEWATER LICENSING LICENSE WQ0013543001

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

Date Compliance History Report Prepared: June 07, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 07, 2017 to June 07, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Alejandro Laje **Phone:** (512) 239-2547

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	June 16, 2017	(1427498)
Item 2	June 26, 2017	(1433506)
Item 3	July 27, 2017	(1442064)
Item 4	August 01, 2017	(1429392)
Item 5	August 31, 2017	(1445733)
Item 6	September 18, 2017	(1452323)
Item 7	October 24, 2017	(1458196)
Item 8	November 29, 2017	(1463627)
Item 9	February 23, 2018	(1488922)
Item 10	March 13, 2018	(1488923)
Item 11	March 28, 2018	(1492580)
Item 12	June 21, 2018	(1509947)

Item 13	July 19, 2018	(1516260)
Item 14	August 22, 2018	(1522307)
Item 15	September 25, 2018	(1529497)
Item 16	November 01, 2018	(1535814)
Item 17	November 25, 2018	(1543684)
Item 18	December 28, 2018	(1547384)
Item 19	January 21, 2019	(1566369)
Item 20	February 19, 2019	(1566367)
Item 21	April 30, 2019	(1574046)
Item 22	May 21, 2019	(1587659)
Item 23	June 25, 2019	(1587660)
Item 24	July 22, 2019	(1595413)
Item 25	August 22, 2019	(1601677)
Item 26	September 25, 2019	(1608582)
Item 27	October 22, 2019	(1615458)
Item 28	November 20, 2019	(1621259)
Item 29	January 05, 2020	(1628597)
Item 30	January 16, 2020	(1636217)
Item 31	February 25, 2020	(1623933)
Item 32	April 21, 2020	(1655708)
Item 33	June 22, 2020	(1668795)
Item 34	July 22, 2020	(1675742)
Item 35	August 21, 2020	(1682536)
Item 36	September 30, 2020	(1689083)
Item 37	January 22, 2021	(1718941)
Item 38	April 28, 2021	(1732003)
Item 39	May 26, 2021	(1743288)
Item 40	June 24, 2021	(1748677)
Item 41	July 22, 2021	(1753835)
Item 42	September 15, 2021	(1768592)
Item 43	November 30, 2021	(1785770)
Item 44	December 27, 2021	(1792819)
Item 45	February 28, 2022	(1808483)
Item 46	March 24, 2022	(1815534)

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: 07/31/2021 (1759215)
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: 09/30/2021 (1779343)
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: 12/31/2021 (1800655)
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



Compliance History Report

Compliance History Report for CN600737092, RN101919611, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600737092, McMullen County Water Control & Improvement District No. 1 **Classification:** SATISFACTORY **Rating:** 2.00

Regulated Entity: RN101919611, TILDEN WASTEWATER TREATMENT PLANT **Classification:** SATISFACTORY **Rating:** 2.00

Complexity Points: 7 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: adjacent to the west side of State Highway 16 and immediately south of the intersection of State Highway 16 and Farm-to-Market Road 72 in McMullen County, Texas

TCEQ Region: REGION 16 - LAREDO

ID Number(s):

WASTEWATER EPA ID TX0107646

WASTEWATER AUTHORIZATION R14945001

WASTEWATER PERMIT WQ0014945001

WASTEWATER EPA ID TX0132675

WASTEWATER LICENSING LICENSE WQ0013543001

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

Date Compliance History Report Prepared: June 07, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 07, 2017 to June 07, 2022

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

Name: Alejandro Laje

Phone: (512) 239-2547

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	June 16, 2017	(1427498)
Item 2	June 26, 2017	(1433506)
Item 3	July 27, 2017	(1442064)
Item 4	August 01, 2017	(1429392)
Item 5	August 31, 2017	(1445733)
Item 6	September 18, 2017	(1452323)
Item 7	October 24, 2017	(1458196)
Item 8	November 29, 2017	(1463627)
Item 9	February 23, 2018	(1488922)
Item 10	March 13, 2018	(1488923)
Item 11	March 28, 2018	(1492580)
Item 12	June 21, 2018	(1509947)

Item 13	July 19, 2018	(1516260)
Item 14	August 22, 2018	(1522307)
Item 15	September 25, 2018	(1529497)
Item 16	November 01, 2018	(1535814)
Item 17	November 25, 2018	(1543684)
Item 18	December 28, 2018	(1547384)
Item 19	January 21, 2019	(1566369)
Item 20	February 19, 2019	(1566367)
Item 21	April 30, 2019	(1574046)
Item 22	May 21, 2019	(1587659)
Item 23	June 25, 2019	(1587660)
Item 24	July 22, 2019	(1595413)
Item 25	August 22, 2019	(1601677)
Item 26	September 25, 2019	(1608582)
Item 27	October 22, 2019	(1615458)
Item 28	November 20, 2019	(1621259)
Item 29	January 05, 2020	(1628597)
Item 30	January 16, 2020	(1636217)
Item 31	February 25, 2020	(1623933)
Item 32	April 21, 2020	(1655708)
Item 33	June 22, 2020	(1668795)
Item 34	July 22, 2020	(1675742)
Item 35	August 21, 2020	(1682536)
Item 36	September 30, 2020	(1689083)
Item 37	January 22, 2021	(1718941)
Item 38	April 28, 2021	(1732003)
Item 39	May 26, 2021	(1743288)
Item 40	June 24, 2021	(1748677)
Item 41	July 22, 2021	(1753835)
Item 42	September 15, 2021	(1768592)
Item 43	November 30, 2021	(1785770)
Item 44	December 27, 2021	(1792819)
Item 45	February 28, 2022	(1808483)
Item 46	March 24, 2022	(1815534)

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: 07/31/2021 (1759215)		
	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: 09/30/2021 (1779343)		
	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: 12/31/2021 (1800655)		
	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
MCMULLEN COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 1
AND MCMULLEN COUNTY
RN101919611

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2022-0720-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 McMullen County Water Control and Improvement District No. 1 and McMullen County (the "Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents, together stipulate that:

1. The Respondents own and operate a wastewater treatment facility located adjacent to the west side of State Highway 16 and immediately south of the intersection of State Highway 16 and Farm-to-Market Road 72 in McMullen 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 Respondents 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 Respondents are 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$12,937 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$2,587 of the penalty is deferred contingent upon the Respondents' 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 Respondents fail 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, \$10,350 of the penalty shall be conditionally offset by the Respondents' timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondents' 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 Respondents 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 Respondents 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 conducted for the Facility on April 29, 2022, an investigator documented that the Respondents failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014945001, Effluent Limitations and Monitoring Requirements No. 1, and as shown in the effluent violation table below:

Monitoring Period	Total Suspended Solids Daily Average Concentration Limit = 15 mg/L	Total Suspended Solids Single Grab Concentration Limit = 60 mg/L	Ammonia Nitrogen Daily Average Concentration Limit = 3 mg/L	Ammonia Nitrogen Single Grab Concentration Limit = 15 mg/L
January 2021	41	100	C	C
February 2021	16	C	C	C
July 2021	C	C	4.15	16.3
September 2021	C	C	4.82	20.4
December 2021	C	C	4.66	C

mg/L = milligrams per liter

C = compliant

III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

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

1. The Respondents are assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondents' 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: McMullen County Water Control and Improvement District No. 1 and McMullen County, Docket No. 2022-0720-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 Respondents shall implement and complete the SEP as set forth in Section I, Paragraph No. 4. The amount of \$10,350 of the assessed penalty is conditionally offset based on the Respondents' 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 Respondents are jointly and severally liable for the violations documented in this Order and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.

4. The Respondents 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. WQ0014945001, 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. The certification shall include photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondents and 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
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

5. All relief not expressly granted in this Order is denied.
6. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If the Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondents' failure to comply is not a violation of this Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until the

Respondents receive 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.

9. This Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

11/30/2023

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

10/13/2023

Date

JAMES E. TEAL

COUNTY JUDGE

Title

Name (Printed or typed)

Authorized Representative of

McMullen County Water Control and Improvement District No. 1


Signature

10/13/2023

Date

JAMES E. TEAL

COUNTY JUDGE

Title

Name (Printed or typed)

Authorized Representative of

McMullen County

☐ 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: 2022-0720-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	McMullen County Water Control and Improvement District No. 1 and McMullen County
Penalty Amount:	\$10,350
SEP Offset Amount:	\$10,350
Type of SEP:	Compliance
Project Name:	<i>Lift Station Pump Replacement</i>
Location of SEP:	McMullen County

The Texas Commission on Environmental Quality (“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 its wastewater treatment facility (the “Facility”) which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s Facility.

1. Project Description

A. Project

Respondent shall hire a contractor to purchase and install two replacement lift station pumps at the Facility. The replacement lift station pumps will help prevent overflow during sewage transportation. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for two lift station pumps (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement, 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 preventing wastewater discharges being released into the environment during the collection process. Wastewater discharges can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. Additional risks include occurrences of low dissolved oxygen, fish kills, algal bloom, and bacterial contamination in waterways.

C. *Minimum Expenditure*

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

Estimated Cost Schedule

Item	Quantity	Cost	Total
Replacement Pump	2	\$6,915.88	\$13,831.76
Total			\$13,831.76

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 and electronic mail, at:

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

3. *Records and Reporting*

A. *Progress Report*

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to TCEQ describing actions performed to date to implement the Project. Within 90 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 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. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
8. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Submittals

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described above in Sections 2 through 4, the ED may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make

the check payable to "Texas Commission on Environmental Quality," and shall mail it to the SEP Coordinator at the address provided above.

6. Publicity

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

7. Recognition

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

8. Other SEPs by TCEQ or Other Agencies

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