

**Executive Summary – Enforcement Matter – Case No. 62542**

**City of Pearland**

**RN101609196**

**Docket No. 2022-0781-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:**

Southwest Environmental Center WWTP, 5900 Magnolia Parkway, Pearland, Brazoria 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 3, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$83,375

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

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$83,375

Name of SEP: WWTP Improvements (Compliance)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 31, 2022

**Date(s) of NOE(s):** June 13, 2022

**Executive Summary – Enforcement Matter – Case No. 62542**

**City of Pearland**

**RN101609196**

**Docket No. 2022-0781-MWD-E**

***Violation Information***

Failed to comply with permitted effluent limitations for ammonia nitrogen, total suspended solids, and carbonaceous biochemical oxygen demand (5-day) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010134007, Interim I 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. WQ0010134007, 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:** 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, SEP Coordinator, Litigation Division, MC 175, (512) 239-0648

**Respondent:** The Honorable Kevin Cole, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581

**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>	20-Jun-2022			
	<b>PCW</b>	22-Jun-2022	<b>Screening</b>	22-Jun-2022	<b>EPA Due</b> 5-Sep-2022

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	City of Pearland				
<b>Reg. Ent. Ref. No.</b>	RN101609196				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	62542	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2022-0781-MWD-E	<b>Order Type</b>	Findings		
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harley Hobson		
		<b>EC's Team</b>	Enforcement Team 1		
<b>Admin. Penalty \$</b>	<b>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>	\$57,500
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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.

<b>Compliance History</b>	45.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$25,875
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<b>Notes</b>	Enhancement for three months of self-reported effluent violations, one NOV with same/similar violations, and one order without a denial of liability.			
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.				
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$9,652	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$130,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$83,375
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$83,375
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<b>DEFERRAL</b>	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	No deferral is recommended for Findings Orders.				
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<b>PAYABLE PENALTY</b>	\$83,375
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<b>Screening Date</b> 22-Jun-2022 <b>Respondent</b> City of Pearland <b>Case ID No.</b> 62542 <b>Reg. Ent. Reference No.</b> RN101609196 <b>Media</b> Water Quality <b>Enf. Coordinator</b> Harley Hobson	<b>Docket No.</b> 2022-0781-MWD-E	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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### 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> )	4	20%
	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	1	25%
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)**

45%

**>> 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**

<b>Compliance History Notes</b>	Enhancement for three months of self-reported effluent violations, one NOV with same/similar violations, and one order without a denial of liability.
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**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)**

45%

**>> Final Compliance History Adjustment**

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

45%

Screening Date

22-Jun-2022

Docket No.

2022-0781-MWD-E

PCW

Respondent

City of Pearland

Policy Revision 5 (January 28, 2021)

Case ID No.

62542

PCW Revision February 11, 2021

Reg. Ent. Reference No.

RN101609196

Media

Water Quality

Enf. Coordinator

Harley Hobson

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. WQ0010134007, Interim I 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

Major

Moderate

Minor

Actual

X

Potential

Percent

100.0%

>>Programmatic Matrix

Falsification

Major

Moderate

Minor

Percent

0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded protective levels. 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

2

59

Number of violation days

daily

weekly

monthly

quarterly

semiannual

annual

single event

X

Violation Base Penalty

\$50,000

Two monthly events are recommened for the months of February and March 2022.

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

\$50,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$9,652

Violation Final Penalty Total

\$72,500

This violation Final Assessed Penalty (adjusted for limits)

\$72,500

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. City of Pearland 62542 RN101609196 Water Quality 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)	\$130,000	31-Oct-2021	26-Apr-2023	1.48	\$9,652	n/a	\$9,652
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 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	\$130,000	TOTAL	\$9,652
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<b>Screening Date</b>	22-Jun-2022	<b>Docket No.</b>	2022-0781-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of Pearland	<i>Policy Revision 5 (January 28, 2021)</i>		
<b>Case ID No.</b>	62542	<i>PCW Revision February 11, 2021</i>		
<b>Reg. Ent. Reference No.</b>	RN101609196			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Harley Hobson			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010134007, Interim I 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
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Release</b>	<b>Harm</b>		
		Major	Moderate	Minor
	Actual			X
Potential				
<b>Percent</b>				30.0%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
<b>Percent</b>				0.0%
<b>Matrix Notes</b>	A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. 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.			
<b>Adjustment</b>				\$17,500
				\$7,500
<b>Violation Events</b>				
Number of Violation Events		1	31	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			
<b>Violation Base Penalty</b>				\$7,500
One quarterly event is recommended for the quarter containing the month of October 2021.				
<b>Good Faith Efforts to Comply</b>		0.0%	<b>Reduction</b>	
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A	X			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>				\$7,500
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>	\$10,875	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$10,875

Economic Benefit Worksheet

Respondent Case ID No. Reg. Ent. Reference No. Media Violation No. City of Pearland 62542 RN101609196 Water Quality 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 is captured in Economic Benefit Worksheet No. 1.						

Avoided CostsANNUALIZE 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
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City of Pearland  
Docket No. 2022-0781-MWD-E  
TPDES Permit No. WQ0010134007  
Case No. 62542

Effluent Violation Table								
	CBOD5 Daily Avg. Conc.	CBOD5 Daily Max. Conc.	NH3N Daily Avg. Conc.	NH3N Daily Max. Conc.	NH3N Daily Avg. Load.	TSS Daily Avg. Conc.	TSS Daily Max. Conc.	TSS Daily Avg. Load.
Monitoring Period	Limit = 5 mg/L	Limit = 20 mg/L	Limit = 2 mg/L	Limit = 10 mg/L	Limit = 67 lbs/day	Limit = 12 mg/L	Limit = 40 mg/L	Limit = 400 lbs/day
October 2021	c	c	2.93	c	75.71	c	c	c
February 2022	8.12	23.1	12.1	27.4	218.14	25.1	79.2	475.96
March 2022	8.4	29.3	11.3	39	210.33	46.2	154	905.16

NH3N = ammonia nitrogen  
mg/L = milligrams per liter  
lbs/day = pounds per day  
CBOD5 = carbonaceous biochemical oxygen demand (5-day)

TSS = total suspended solids  
Conc. = concentration  
Max. = maximum

Avg. = average  
Load. = loading  
c = compliant



# Compliance History Report

Compliance History Report for CN600595052, RN101609196, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

**Customer, Respondent, or Owner/Operator:** CN600595052, City of Pearland  
**Classification:** SATISFACTORY  
**Rating:** 1.01

**Regulated Entity:** RN101609196, SOUTHWEST ENVIRONMENTAL CENTER WWTP  
**Classification:** HIGH  
**Rating:** 0.00

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

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

**Location:** 5900 Magnolia Parkway in Pearland, Brazoria County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**  
**WASTEWATER PERMIT** WQ0010134007  
**WASTEWATER EPA ID** TX0116581  
**STORMWATER PERMIT** TXR05V641  
**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 86060

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

**Date Compliance History Report Prepared:** June 22, 2022

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 22, 2017 to June 22, 2022

**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: 01/27/2022 ADMINORDER 2021-0034-WQ-E (Findings Order-Agreed Order Without Denial)  
 Classification: Major  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 30 TAC Chapter 305, SubChapter F 305.125(4)  
 Rqmt Prov: Permit Condition 2(g). PERMIT  
 Description: Failure to prevent the unauthorized discharge of wastewater which results in a documented serious impact to the environment.  
 Classification: Minor  
 Citation: 30 TAC Chapter 319, SubChapter C 319.302(c)  
 Description: Failed to adequately notify the appropriate local government officials and the local media of an unauthorized discharge within 24 hours.

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

Item 1	September 27, 2017	(1445205)	Item 7	March 16, 2018	(1492065)
Item 2	October 18, 2017	(1457654)	Item 8	May 01, 2018	(1495348)
Item 3	November 20, 2017	(1463089)	Item 9	May 15, 2018	(1502282)
Item 4	December 19, 2017	(1469521)	Item 10	June 20, 2018	(1509395)
Item 5	January 22, 2018	(1476226)	Item 11	July 20, 2018	(1515717)
Item 6	February 20, 2018	(1488389)	Item 12	September 19, 2018	(1528938)

Item 13	September 27, 2018	(1521750)	Item 34	July 20, 2020	(1675201)
Item 14	October 20, 2018	(1535261)	Item 35	September 16, 2020	(1688547)
Item 15	November 20, 2018	(1543118)	Item 36	September 30, 2020	(1681975)
Item 16	December 20, 2018	(1546854)	Item 37	October 16, 2020	(1694911)
Item 17	February 20, 2019	(1564687)	Item 38	November 18, 2020	(1717307)
Item 18	March 20, 2019	(1564688)	Item 39	December 15, 2020	(1717308)
Item 19	April 16, 2019	(1573494)	Item 40	January 15, 2021	(1717309)
Item 20	May 20, 2019	(1586581)	Item 41	February 20, 2021	(1730388)
Item 21	June 13, 2019	(1586582)	Item 42	March 16, 2021	(1730389)
Item 22	July 19, 2019	(1594835)	Item 43	April 19, 2021	(1730390)
Item 23	September 12, 2019	(1608047)	Item 44	May 19, 2021	(1742475)
Item 24	September 30, 2019	(1601134)	Item 45	June 18, 2021	(1748422)
Item 25	October 28, 2019	(1614914)	Item 46	June 24, 2021	(1712138)
Item 26	November 15, 2019	(1620702)	Item 47	July 19, 2021	(1753306)
Item 27	December 16, 2019	(1628051)	Item 48	August 19, 2021	(1758707)
Item 28	December 20, 2019	(1635681)	Item 49	September 20, 2021	(1768019)
Item 29	February 20, 2020	(1642296)	Item 50	October 19, 2021	(1778570)
Item 30	March 18, 2020	(1648807)	Item 51	December 20, 2021	(1792272)
Item 31	April 20, 2020	(1655160)	Item 52	February 04, 2022	(1800123)
Item 32	May 12, 2020	(1661720)	Item 53	February 16, 2022	(1807953)
Item 33	June 18, 2020	(1668255)	Item 54	March 14, 2022	(1789493)

#### **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: 10/31/2021 (1785237)  
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: 02/02/2022 (1782515)  
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)  
Description: Failure to prevent the unauthorized discharge of wastewater. Specifically, since the previous compliance investigation on November 3, 2020 there have been eighteen (18) self-reported unauthorized discharges.
- 3 Date: 02/28/2022 (1814995)  
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 (1821564)  
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 PEARLAND  
RN101609196

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

## AGREED ORDER DOCKET NO. 2022-0781-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 Pearland (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 5900 Magnolia Parkway in Pearland, Brazoria 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 conducted for the Facility on May 31, 2022, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent violation table below:

Effluent Violation Table								
	CBOD5 Daily Avg. Conc.	CBOD5 Daily Max. Conc.	NH3N Daily Avg. Conc.	NH3N Daily Max. Conc.	NH3N. Daily Avg. Load.	TSS Daily Avg. Conc.	TSS Daily Max. Conc.	TSS Daily Avg. Load.
Monitoring Period	Limit = 5 mg/L	Limit = 20 mg/L	Limit = 2 mg/L	Limit = 10 mg/L	Limit = 67 lbs/day	Limit = 12 mg/L	Limit = 40 mg/L	Limit = 400 lbs/day
October 2021	c	c	2.93	c	75.71	c	c	c
February 2022	8.12	23.1	12.1	27.4	218.14	25.1	79.2	475.96
March 2022	8.4	29.3	11.3	39	210.33	46.2	154	905.16

NH3N = ammonia nitrogen  
mg/L = milligrams per liter  
lbs/day = pounds per day  
CBOD5 = carbonaceous biochemical oxygen demand (5-day)

TSS = total suspended solids  
Conc. = concentration  
Max. = maximum

Avg. = average  
Load. = loading  
c = compliant

## 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, 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. WQ0010134007, Interim I Effluent Limitations and Monitoring Requirements No. 1.
3. 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.
4. An administrative penalty in the amount of \$83,375 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, \$83,375 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. 4 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 Pearland, Docket No. 2022-0781-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 implemented and completed the SEP as set forth in Conclusion of Law No. 4. The amount of \$83,375 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. WQ0010134007, 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
8. 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.
9. 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.
10. 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.

11. 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.
12. 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

11/29/2023  
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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

10/11/23  
-----  
Date

J. Kevin Cole  
-----  
Name (Printed or typed)  
Authorized Representative of  
City of Pearland

Mayor  
-----  
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: 2022-0781-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Pearland
<b>Penalty Amount:</b>	\$83,375
<b>SEP Offset Amount:</b>	\$83,375
<b>Type of SEP:</b>	Compliance
<b>Project Name:</b>	<i>WWTP Improvements</i>
<b>Location of SEP:</b>	Brazoria 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”).

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 a contractor to repair and replace control valves throughout the system and clean the treatment basins at the John Hargrove Water Reclamation Facility. Specifically, the SEP Offset Amount was used for materials, supplies, and equipment for replacement and repair of valves and the cleaning and removal of rags from the basins. (the “Project”). Respondent hired qualified 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 better treating the wastewater and avoid the discharge of effluent with noncompliant levels of carbonaceous biochemical oxygen demand (“CBOD”) and ammonia. Inadequately treated 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 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**

<b>Item</b>	<b>Total</b>
Repair Control Valve	\$9,975.00
Replace Control Valves	\$20,432.00
Cleaning Basin 1	\$32,773.50
Cleaning Basin 2	\$25,532.25
<b>Total</b>	<b>\$88,712.75</b>

**2. Records**

As of July 19, 2023, 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. A detailed map showing the specific location of the Project site(s); and
6. Photographs of the purchased materials and supplies, 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.