

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

DATES	Assigned	20-Jun-2022	Screening	22-Jun-2022	EPA Due	5-Sep-2022
	PCW	22-Jun-2022				

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

CASE INFORMATION			
Enf./Case ID No.	62542	No. of Violations	2
Docket No.	2022-0781-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	\$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.

Compliance History	45.0% Adjustment	Subtotals 2, 3, & 7	\$25,875
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Notes: Enhancement for three months of self-reported effluent violations, one NOV with same/similar violations, and one order without a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$9,652
 Estimated Cost of Compliance: \$130,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$83,375
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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	\$83,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$83,375
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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.

PAYABLE PENALTY	\$83,375
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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

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

Compliance History Notes

Enhancement for three months of self-reported effluent violations, one NOV with same/similar violations, and one order without a denial of liability.

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			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62542			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101609196			
Media	Water Quality			
Enf. Coordinator	Harley Hobson			

Violation Number

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

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	X			Percent <input type="text" value="100.0%"/>
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent <input type="text" value="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

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

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

Good Faith Efforts to Comply

Reduction

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	<input type="text"/>

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Pearland
Case ID No. 62542
Reg. Ent. Reference No. RN101609196
Media Violation No. 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

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 2
Rule Cite(s) 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
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		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 30.0%

>> 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. 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 1 31 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One quarterly event is recommended for the quarter containing the month of October 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 \$7,500

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$10,875

This violation Final Assessed Penalty (adjusted for limits) \$10,875

Economic Benefit Worksheet

Respondent City of Pearland
Case ID No. 62542
Reg. Ent. Reference No. RN101609196
Media Violation No. 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 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
 (Empty box for notes)

Approx. Cost of Compliance

TOTAL

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

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§
§
§

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

- 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.
- 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.
- 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.
- 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



11/29/2023

For the Executive Director

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.

Signature

Date



10/11/23

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

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

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

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.