

**Executive Summary – Enforcement Matter – Case No. 62576**

**City of Southlake**

**RN101183010**

**Docket No. 2022-0835-WQ-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Unauthorized action which deprives others of water, severely affects aquatic life, or results in a safety hazard, property damage, or economic loss.

**Media:**

WQ

**Small Business:**

No

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

City of Southlake PWS, 1950 East Continental Boulevard, Southlake, Tarrant County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 23, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$8,125

**Total Paid to General Revenue:** \$8,125

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**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:** June 9, 2022

**Date(s) of NOE(s):** June 16, 2022

***Violation Information***

Failed to prevent an unauthorized discharge of potable water into or adjacent to any water in the state [TEX. WATER CODE § 26.121(a)(1)].

**Executive Summary – Enforcement Matter – Case No. 62576**  
**City of Southlake**  
**RN101183010**  
**Docket No. 2022-0835-WQ-E**

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented a corrective measure at the Site by adding dechlorination tablets to Jones Creek branch and removed and properly disposed of the dead fish by April 14, 2022.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Mark Gamble, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2587; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** The Honorable John Huffman, Mayor, City of Southlake, 1400 Main Street, Suite 460, Southlake, Texas 76092-7645

Robert Cohen, Director of Public Works, City of Southlake, 1400 Main Street, Suite 460, Southlake, Texas 76092-7645

**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>Screening</b>	30-Jun-2022	<b>EPA Due</b>	
	<b>PCW</b>	15-Jul-2022				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Southlake
<b>Reg. Ent. Ref. No.</b>	RN101183010
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	62576	<b>No. of Violations</b>	1
<b>Docket No.</b>	2022-0835-WQ-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>	Mark Gamble
		<b>EC's Team</b>	Enforcement Team 1
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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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>	<b>-10.0%</b>	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>-\$1,250</b>
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<b>Notes</b>	Reduction for High Performer Classification.
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<b>Culpability</b>	No	<b>0.0%</b>	<b>Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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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>	<b>-\$3,125</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	<b>Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$1,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,125</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$8,125</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,125</b>
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<b>DEFERRAL</b>	<b>0.0%</b>	<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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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>	<b>\$8,125</b>
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<b>Screening Date</b>	30-Jun-2022	<b>Docket No.</b>	2022-0835-WQ-E	<b>PCW</b>
<b>Respondent</b>	City of Southlake			
<b>Case ID No.</b>	62576			
<b>Reg. Ent. Reference No.</b>	RN101183010			
<b>Media</b>	Water Quality			
<b>Enf. Coordinator</b>	Mark Gamble			

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

## 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> )	0	0%
	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)** 0%

### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

### >> Compliance History Person Classification (Subtotal 7)

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

### >> Compliance History Summary

**Compliance History Notes**

Reduction for High Performer Classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** -10%

<b>Screening Date</b> 30-Jun-2022 <b>Respondent</b> City of Southlake <b>Case ID No.</b> 62576 <b>Reg. Ent. Reference No.</b> RN101183010 <b>Media</b> Water Quality <b>Enf. Coordinator</b> Mark Gamble <b>Violation Number</b> 1 <b>Rule Cite(s)</b> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">Tex. Water Code § 26.121(a)(1)</div> <b>Violation Description</b> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">Failed to prevent an unauthorized discharge of potable water into or adjacent to any water in the state. Specifically, the Respondent was conducting flushing activities of a fire hydrant near 831 Simmons Court in Southlake, which was left open for 19 hours, and discharged approximately 571,300 gallons of potable water into Jones Creek branch, killing 207 fish.</div>	<b>Docket No.</b> 2022-0835-WQ-E <div style="text-align: right;"><b>PCW</b> <small>Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021</small></div>
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**Base Penalty** \$25,000

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

OR

	Major	Moderate	Minor
<b>Release</b>			
Actual	x		
Potential			

**Percent** 50.0%

**>> Programmatic Matrix**

	Major	Moderate	Minor
Falsification			

**Percent** 0.0%

**Matrix Notes**  

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** \$12,500  
\$12,500

**Violation Events**

**Number of Violation Events** 1

3 **Number of violation days**

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$12,500

One monthly event is recommended from the April 11, 2022 discharge date to the April 14, 2022 compliance date.

**Good Faith Efforts to Comply**

25.0%

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

**Notes**  

The Respondent achieved compliance by April 14, 2022.

**Reduction** \$3,125

**Violation Subtotal** \$9,375

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$0

**Statutory Limit Test**  
**Violation Final Penalty Total** \$8,125

**This violation Final Assessed Penalty (adjusted for limits)** \$8,125

# Economic Benefit Worksheet

**Respondent** City of Southlake  
**Case ID No.** 62576  
**Reg. Ent. Reference No.** RN101183010  
**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	\$1,000	11-Apr-2022	14-Apr-2022	0.01	\$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 Remediation/Disposal cost to add dechlorination tablets to the Jones Creek branch, and remove and properly dispose of the dead fish. The Date Required is the date the discharge began, and the Final Date is the compliance date.

## Avoided Costs

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

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

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

Compliance History Report for CN600630412, RN101183010, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN600630412, City of Southlake **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN101183010, CITY OF SOUTHLAKE **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 3 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1950 East Continental Boulevard, Southlake, Tarrant County, Texas

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

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 2200075 **PETROLEUM STORAGE TANK REGISTRATION** 85281

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

**Date Compliance History Report Prepared:** June 14, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 14, 2019 to June 14, 2024

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

**Name:** Mark Gamble

**Phone:** (512) 239-2587

**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.):**

N/A

**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.

N/A

**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 SOUTHLAKE  
RN101183010

§ BEFORE THE  
§ TEXAS COMMISSION ON  
§ ENVIRONMENTAL QUALITY  
§

## AGREED ORDER DOCKET NO. 2022-0835-WQ-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 Southlake (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 public water supply located at 1950 East Continental Boulevard, in Southlake, Tarrant County, Texas (the "Site"). The Site is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During a record review conducted on June 9, 2022, an investigator documented that the Respondent was conducting flushing activities of a fire hydrant near 831 Simmons Court in Southlake, which was left open for 19 hours, and discharged approximately 571,300 gallons of potable water into Jones Creek branch, killing 207 fish.
3. The Executive Director recognizes that the Respondent has implemented a corrective measure at the Site by adding dechlorination tablets to Jones Creek branch and removed and properly disposed of the dead fish by April 14, 2022.

## 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 prevent an unauthorized discharge of potable water into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(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 \$8,125 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$8,125 penalty.

## 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 Southlake, Docket No. 2022-0835-WQ-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. All relief not expressly granted in this Order is denied.
3. 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 Site operations referenced in this Order.
4. 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.

5. 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.
6. 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.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director

9/3/2024


Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
Signature

7/12/24  
Date

Robert Cohen

DIRECTOR OF PUBLIC WORKS

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

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.