

Executive Summary – Enforcement Matter – Case No. 63379

City of Cleburne

RN101721579

Docket No. 2022-1624-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Cleburne WWTP, 1801 Park Boulevard, Cleburne, Johnson 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: February 21, 2025

Comments Received: No

Penalty Information

Total Penalty Assessed: \$32,500

Total Paid to General Revenue: \$32,500

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - High

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: September 27, 2022

Date(s) of NOE(s): November 22, 2022

Executive Summary – Enforcement Matter – Case No. 63379
City of Cleburne
RN101721579
Docket No. 2022-1624-MWD-E

Violation Information

Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010006001, Permit Conditions No. 2.g].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By October 10, 2022, the Respondent ceased the discharge, collected and properly disposed the dead fish, and pumped out the creek.

Technical Requirements:

N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Taylor Williamson, Enforcement Division, Enforcement Team 1, MC R-12, (512) 239-2097; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Scott Cain, Mayor, City of Cleburne, P.O. Box 677, Cleburne, Texas 76033

Michael Marrero, City Manager, City of Cleburne, P.O. Box 677, Cleburne, Texas 76033

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	28-Nov-2022	Screening	30-Nov-2022	EPA Due	
	PCW	20-Nov-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Cleburne
Reg. Ent. Ref. No.	RN101721579
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	63379	No. of Violations	1
Docket No.	2022-1624-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Taylor Williamson
		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	\$50,000
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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	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$5,000
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Notes Reduction for High Performer Classification.

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	-\$12,500
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$9
Estimated Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$32,500
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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	\$32,500
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$32,500
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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	\$32,500
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Screening Date	30-Nov-2022	Docket No.	2022-1624-MWD-E	PCW
Respondent	City of Cleburne			
Case ID No.	63379			
Reg. Ent. Reference No.	RN101721579			
Media	Water Quality			
Enf. Coordinator	Taylor Williamson			

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%

Screening Date 30-Nov-2022 Respondent City of Cleburne Case ID No. 63379 Reg. Ent. Reference No. RN101721579 Media Water Quality Enf. Coordinator Taylor Williamson Violation Number 1 Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010006001, Permit Conditions No. 2.g Violation Description Failed to prevent an unauthorized discharge of sewage into or adjacent to any water in the state. Specifically, 5,162 gallons of sewage discharged from a vacant building located at 116 South Mill Street, Cleburne, Texas and into West Buffalo Creek, killing 100 fish.	Docket No. 2022-1624-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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	Base Penalty \$25,000
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>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					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.
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	Adjustment \$0
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	Base Penalty \$25,000
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Violation Events

Number of Violation Events	2	13	Number of violation days
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	daily					
	weekly	x				
	monthly					
	quarterly					
	semiannual					
	annual					
	single event					

	Violation Base Penalty \$50,000
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Two weekly events are recommended from the date the discharge occurred (September 27, 2022) to the compliance date (October 10, 2022).
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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 on October 10, 2022.		

	Violation Subtotal \$37,500
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Economic Benefit (EB) for this violation

	\$9		
Estimated EB Amount		Violation Final Penalty Total	
			\$32,500

	This violation Final Assessed Penalty (adjusted for limits) \$32,500
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Economic Benefit Worksheet

Respondent City of Cleburne
Case ID No. 63379
Reg. Ent. Reference No. RN101721579
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	\$5,000	27-Sep-2022	10-Oct-2022	0.04	\$9	n/a	\$9
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 cease the discharge, collect and properly dispose the dead fish, pump out the creek, and recover the sewage. The Date Required is the date of the discharge, and the Final Date is the date of compliance.							

Avoided Costs

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

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

Approx. Cost of Compliance \$5,000

TOTAL \$9



Compliance History Report

Compliance History Report for CN600241392, RN101721579, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

Customer, Respondent, or Owner/Operator: CN600241392, City of Cleburne

Classification: HIGH

Rating: 0.00

Regulated Entity: RN101721579, CITY OF CLEBURNE
WASTEWATER TREATMENT PLANT

Classification: HIGH

Rating: 0.00

Complexity Points: 11

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1801 Park Boulevard, in the City of Cleburne in Johnson County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PRETREATMENT PERMIT WQ0010006001

PRETREATMENT EPA ID TX0047155000

SLUDGE AUTHORIZATION 720019

STORMWATER PERMIT TXR05CY70

WASTEWATER AUTHORIZATION R10006001

WASTEWATER PERMIT WQ0010006001

WASTEWATER EPA ID TX0047155

Compliance History Period: September 01, 2019 to August 31, 2024

Rating Year: 2024

Rating Date: 09/01/2024

Date Compliance History Report Prepared: November 20, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 20, 2019 to November 20, 2024

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

Name: Taylor Williamson

Phone: (512) 239-2097

Site and Owner/Operator History:

- | | |
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| 1) Has the site been in existence and/or operation for the full five-year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	December 19, 2019	(1626951)	Item 12	November 16, 2020	(1714080)
Item 2	January 14, 2020	(1634591)	Item 13	December 16, 2020	(1714081)
Item 3	January 24, 2020	(1612083)	Item 14	April 12, 2021	(1727148)
Item 4	February 17, 2020	(1641206)	Item 15	May 18, 2021	(1740874)
Item 5	April 14, 2020	(1654070)	Item 16	July 14, 2021	(1752243)
Item 6	May 12, 2020	(1660642)	Item 17	August 16, 2021	(1757692)
Item 7	June 10, 2020	(1667162)	Item 18	September 14, 2021	(1766879)
Item 8	July 14, 2020	(1674114)	Item 19	October 19, 2021	(1777373)
Item 9	August 11, 2020	(1680887)	Item 20	November 16, 2021	(1784171)
Item 10	September 16, 2020	(1687458)	Item 21	November 24, 2021	(1774424)
Item 11	October 19, 2020	(1693797)	Item 22	December 15, 2021	(1791200)
			Item 23	January 18, 2022	(1798983)

Item 25	February 14, 2022	(1806861)	Item 44	June 27, 2023	(1905066)
Item 26	March 17, 2022	(1813926)	Item 45	July 11, 2023	(1926614)
Item 27	April 18, 2022	(1820499)	Item 46	August 15, 2023	(1933573)
Item 28	May 18, 2022	(1829335)	Item 47	September 12, 2023	(1939713)
Item 29	June 15, 2022	(1835629)	Item 48	October 17, 2023	(1946559)
Item 30	June 28, 2022	(1810551)	Item 49	November 13, 2023	(1952250)
Item 31	July 19, 2022	(1842831)	Item 50	December 12, 2023	(1962022)
Item 32	August 16, 2022	(1848959)	Item 51	January 12, 2024	(1968612)
Item 33	September 13, 2022	(1856759)	Item 52	February 13, 2024	(1977671)
Item 34	October 13, 2022	(1863118)	Item 53	March 14, 2024	(1984248)
Item 35	November 15, 2022	(1870030)	Item 54	March 28, 2024	(1981038)
Item 36	December 14, 2022	(1875879)	Item 55	April 10, 2024	(1990768)
Item 37	January 17, 2023	(1882698)	Item 56	May 10, 2024	(1997224)
Item 38	February 15, 2023	(1890512)	Item 57	May 21, 2024	(1983491)
Item 39	March 15, 2023	(1899078)	Item 58	June 12, 2024	(2004180)
Item 40	March 20, 2023	(1893777)	Item 60	July 09, 2024	(1994339)
Item 41	April 17, 2023	(1905865)	Item 61	July 15, 2024	(2011736)
Item 42	May 09, 2023	(1913040)	Item 62	August 13, 2024	(2017330)
Item 43	June 13, 2023	(1919649)	Item 63	September 11, 2024	(2024359)

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 CLEBURNE
RN101721579

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

AGREED ORDER DOCKET NO. 2022-1624-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 Cleburne (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 1801 Park Boulevard, in the City of Cleburne in Johnson 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 an investigation at the Facility conducted on September 27, 2022, an investigator documented that 5,162 gallons of sewage discharged from a vacant building located at 116 South Mill Street and into West Buffalo Creek, killing 100 fish.
3. The Executive Director recognizes that by October 10, 2022, the Respondent ceased the discharge, collected and properly disposed the dead fish, and pumped out the creek.

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 sewage into or adjacent to any water in the state, in violation

of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010006001, Permit Conditions No. 2.g.

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 \$32,500 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 \$32,500 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 Cleburne, Docket No. 2022-1624-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. 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

4/4/2025

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

Michael Marrero

City Manager

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

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.