

Executive Summary – Enforcement Matter – Case No. 64899

City of Livingston

RN101916500

Docket No. 2023-1423-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 Livingston WWTF, 1700 Marsh Drive, Livingston, Polk 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: March 7, 2025

Comments Received: No

Penalty Information

Total Penalty Assessed: \$152,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$152,000

Name of SEP: Bar Screen Upgrade (Compliance)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

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: July 18, 2023

Date(s) of NOE(s): September 13, 2023

Executive Summary – Enforcement Matter – Case No. 64899

City of Livingston

RN101916500

Docket No. 2023-1423-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids and *Escherichia coli* [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010208001, 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. WQ0010208001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Madison Stringer, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-1126; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Adena Crider, Litigation Division, MC 175, (512) 239-0648

Respondent: The Honorable Judy Cochran, Mayor, City of Livingston, 200 West Church Street, Livingston, Texas 77351

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	18-Sep-2023	Screening	26-Sep-2023	EPA Due	5-Dec-2023
	PCW	26-Sep-2023				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Livingston
Reg. Ent. Ref. No.	RN101916500
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	64899	No. of Violations	2
Docket No.	2023-1423-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Madison Stringer
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$100,000
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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	52.0%	Adjustment	Subtotals 2, 3, & 7	\$52,000
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Notes	Enhancement for ten months of self-reported effluent violations and one NOV with dissimilar violations.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$2,503
Estimated Cost of Compliance	\$25,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$152,000
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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	\$152,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$152,000
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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.
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PAYABLE PENALTY	\$152,000
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Screening Date	26-Sep-2023	Docket No.	2023-1423-MWD-E	PCW
Respondent	City of Livingston			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	64899			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101916500			
Media	Water Quality			
Enf. Coordinator	Madison Stringer			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	10	50%
	Other written NOVs	1	2%
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) 52%

>> 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 ten months of self-reported effluent violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 52%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 52%

Screening Date	26-Sep-2023	Docket No.	2023-1423-MWD-E
Respondent	City of Livingston		
Case ID No.	64899		
Reg. Ent. Reference No.	RN101916500		
Media	Water Quality		
Enf. Coordinator	Madison Stringer		
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. WQ0010208001, 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 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

\$25,000

Violation Events

Number of Violation Events	2	61	Number of violation days
----------------------------	---	----	--------------------------

	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				

Violation Base Penalty \$50,000

Two monthly events are recommended for the months of December 2022 and April 2023.
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Good Faith Efforts to Comply

	0.0%				
	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

Estimated EB Amount	\$2,503	Violation Final Penalty Total	\$76,000
This violation Final Assessed Penalty (adjusted for limits)			\$76,000

Economic Benefit Worksheet

Respondent City of Livingston
Case ID No. 64899
Reg. Ent. Reference No. RN101916500
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25,000	30-Nov-2022	30-Nov-2024	2.00	\$2,503	n/a	\$2,503
Notes for DELAYED costs	Estimated 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, 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	\$25,000	TOTAL	\$2,503
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Screening Date 26-Sep-2023 Respondent City of Livingston Case ID No. 64899 Reg. Ent. Reference No. RN101916500 Media Water Quality Enf. Coordinator Madison Stringer Violation Number 2	Docket No. 2023-1423-MWD-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>																					
<table style="width: 100%;"> <tr> <td style="width: 25%;">Rule Cite(s)</td> <td>30 Tex. Admin. Code § 305.125 (1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010208001, Effluent Limitations and Monitoring Requirements No.1</td> </tr> <tr> <td>Violation Description</td> <td>Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.</td> </tr> </table>			Rule Cite(s)	30 Tex. Admin. Code § 305.125 (1), Tex. Water Code § 26.121(a)(1), and TPDES Permit No. WQ0010208001, Effluent Limitations and Monitoring Requirements No.1	Violation Description	Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.																	
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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	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"></td> <td style="width: 15%; text-align: center;">Release</td> <td style="width: 15%; text-align: center;">Harm</td> <td style="width: 15%;"></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Major Moderate Minor</td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Release	Harm				Major Moderate Minor		Actual		x		Potential				Percent 50.0%					
	Release	Harm																					
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Actual		x																					
Potential																							
>> Programmatic Matrix																							
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	Falsification	Major	Moderate	Minor																			
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not 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		4																					
		120 Number of violation days																					
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"></td> <td style="width: 15%; text-align: center;">daily</td> <td style="width: 15%;"></td> </tr> <tr> <td></td> <td style="text-align: center;">weekly</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">monthly</td> <td style="text-align: center;">x</td> </tr> <tr> <td></td> <td style="text-align: center;">quarterly</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">semiannual</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">annual</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">single event</td> <td></td> </tr> </table>		daily			weekly			monthly	x		quarterly			semiannual			annual			single event		Violation Base Penalty \$50,000
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Four monthly events are recommended for the months of November 2022 and January, February, and March 2023.																							
Good Faith Efforts to Comply		0.0% Reduction \$0																					
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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	\$0	Violation Final Penalty Total \$76,000																					
This violation Final Assessed Penalty (adjusted for limits)		\$76,000																					

Economic Benefit Worksheet

Respondent City of Livingston
Case ID No. 64899
Reg. Ent. Reference No. RN101916500
Media Water Quality
Violation No. 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 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							

Approx. Cost of Compliance \$0

TOTAL \$0

City of Livingston Docket No. 2023-1423-MWD-E TPDES Permit No. WQ0010208001 Case No. 64899					
Effluent Violations Table					
	<i>Escherichia coli</i> Daily Average Conc.	<i>Escherichia coli</i> Daily Max. Conc.	Total Suspended Solids Daily Average Conc.	Total Suspended Solids Daily Max. Conc.	Total Suspended Solids Daily Average Load.
Monitoring Period	Limit = 126 CFU/100 mL	Limit = 399 CFU/100 mL	Limit = 5 mg/L	Limit = 20 mg/L	Limit = 94 lbs/day
November 2022	c	1,300	c	c	c
December 2022	c	5,000	7	34	109.6
January 2023	c	3,300	c	c	c
February 2023	c	2,000	c	c	c
March 2023	242	3,000	c	c	c
April 2023	c	20,400	6	35	c

Conc. = concentration Load. = loading mg/L = milligrams per liter lbs/ day = pounds per day c = compliant Max. = maximum
CFU/100 mL = colony forming units per 100 milliliters



Compliance History Report

Compliance History Report for CN600672166, RN101916500, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN600672166, City of Livingston **Classification:** SATISFACTORY **Rating:** 1.29

Regulated Entity: RN101916500, CITY OF LIVINGSTON **Classification:** SATISFACTORY **Rating:** 1.87

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

CH Group: 08 - Sewage Treatment Facilities

Location: 1700 Marsh Drive, Livingston, Polk County, Texas

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
WASTEWATER PERMIT WQ0010208001 **WASTEWATER EPA ID** TX0024163
SLUDGE REGISTRATION 22132

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

Date Compliance History Report Prepared: March 12, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 12, 2019 to March 12, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Madison Stringer **Phone:** (512) 239-1126

Site and Owner/Operator History:

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

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

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

B. Criminal convictions: N/A

C. Chronic excessive emissions events: N/A

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

Item 1	March 15, 2019	(1560399)
Item 2	April 18, 2019	(1572067)
Item 3	May 15, 2019	(1583740)
Item 4	June 19, 2019	(1583741)
Item 5	July 16, 2019	(1593398)
Item 6	September 18, 2019	(1606632)
Item 7	September 25, 2019	(1599733)
Item 8	October 17, 2019	(1613478)
Item 9	November 15, 2019	(1619293)
Item 10	December 16, 2019	(1626646)
Item 11	January 16, 2020	(1634287)
Item 12	February 18, 2020	(1640903)

Item 13	March 16, 2020	(1647422)
Item 14	April 21, 2020	(1653762)
Item 15	May 20, 2020	(1660344)
Item 16	June 19, 2020	(1666857)
Item 17	July 21, 2020	(1673808)
Item 18	September 15, 2020	(1680587)
Item 19	September 18, 2020	(1687153)
Item 20	October 22, 2020	(1693496)
Item 21	November 20, 2020	(1713183)
Item 23	December 18, 2020	(1713184)
Item 24	January 20, 2021	(1713185)
Item 25	February 19, 2021	(1726242)2
Item 26	March 19, 2021	(1726243)
Item 27	April 19, 2021	(1726244)
Item 28	May 20, 2021	(1740429)
Item 29	June 17, 2021	(1747712)
Item 30	July 20, 2021	(1751946)
Item 31	September 17, 2021	(1766503)
Item 32	October 20, 2021	(1777074)
Item 33	November 22, 2021	(1783864)
Item 34	December 17, 2021	(1790894)
Item 35	January 20, 2022	(1798684)
Item 36	February 11, 2022	(1806560)
Item 37	March 18, 2022	(1813626)
Item 38	April 20, 2022	(1820196)
Item 39	May 20, 2022	(1829037)
Item 40	June 17, 2022	(1835328)
Item 41	July 15, 2022	(1869732)
Item 42	August 19, 2022	(1848662)
Item 43	September 20, 2022	(1856462)
Item 44	October 20, 2022	(1862820)
Item 45	November 21, 2022	(1869733)

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: 03/31/2023 (1905569)
Self Report? YES
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 | Classification: Moderate |
| 2 | Date: 04/30/2023 (1912748)
Self Report? YES
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 | Classification: Moderate |
| 3 | Date: 05/31/2023 (1919352)
Self Report? YES
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 | Classification: Moderate |
| 4 | Date: 06/30/2023 (1926319)
Self Report? YES
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 | Classification: Moderate |
| 5 | Date: 07/31/2023 (1933276)
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		
6	Date:	08/31/2023 (1939417)		
	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		
7	Date:	09/30/2023 (1946266)		
	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		
8	Date:	10/31/2023 (1951956)		
	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		
9	Date:	11/30/2023 (1961726)		
	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		
10	Date:	11/30/2023 (1938519)		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 317 317.7(e)		
	Description:	Failure by the City of Livingston to keep the WWTP secure.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) OPR Pg. 13, No. 1 PERMIT		
	Description:	Failure by the City of Livingston to properly operate and maintain units of collection, treatment, and disposal.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) MRR, Pg. 6, No. 5 PERMIT		
	Description:	Failure by the City of Livingston to accurately calibrate the flow meter as often as necessary to ensure accuracy but not less than annually.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(5) OPR Pg. 13, No. 1 PERMIT		
	Description:	Failure by the City of Livingston to properly operate and maintain units of collection, treatment, and disposal.		
11	Date:	12/31/2023 (1968318)		
	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 LIVINGSTON
RN101916500

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

AGREED ORDER DOCKET NO. 2023-1423-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 Livingston (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 1700 Marsh Drive in Livingston, Polk 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 for the Facility conducted on July 18, 2023, an investigator documented that the Respondent did not comply with permitted effluent limitations, as shown in the effluent table below:

Effluent Violation Table					
	<i>Escherichia coli</i> Daily Average Conc.	<i>Escherichia coli</i> Daily Max. Conc.	Total Suspended Solids Daily Average Conc.	Total Suspended Solids Daily Max. Conc.	Total Suspended Solids Daily Average Load.
Monitoring Period	Limit = 126 CFU /100 mL	Limit = 399 CFU /100 mL	Limit = 5 mg/L	Limit = 20 mg/L	Limit = 94 lbs/day
November 2022	c	1,300	c	c	c
December 2022	c	5,000	7	34	109.6
January 2023	c	3,300	c	c	c
February 2023	c	2,000	c	c	c
March 2023	242	3,000	c	c	c
April 2023	c	20,400	6	35	c

Conc. = concentration Load. = loading mg/L = milligrams per liter
lbs/ day = pounds per day c = compliant Max. = maximum
CFU/100 mL = colony forming units per 100 milliliters

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. WQ0010208001, 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 \$152,000 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, \$152,000 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 Livingston, Docket No. 2023-1423-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 shall implement and complete the SEP as set forth in Section II, Conclusion of Law No. 4. The amount of \$152,000 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. WQ0010208001, 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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Fwy
Beaumont, Texas 77703-1830

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. 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.
7. 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.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. 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.
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed,

substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

4/7/2025

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

Feb. 4, 2025

Date

Judy Cochran

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

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: 2023-1423-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Livingston
Penalty Amount:	\$152,000
SEP Offset Amount:	\$152,000
Type of SEP:	Compliance
Project Name:	<i>Bar Screen Upgrade</i>
Location of SEP:	Polk County

The Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order in exchange for Respondent’s performance of a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility (the “Facility”) which are described in this Agreed Order. This Agreed Order cites violations at Respondent’s Facility.

1. Project Description

A. Project

Respondent shall hire a contractor to purchase and replace the existing bar screen at the Facility. Specifically, the SEP Offset Amount shall be used for materials, supplies, and equipment for a bar screen replacement (the “Project”). Respondent shall solicit bids from qualified contractors to perform the Project. Any advertisement or invitation for bids, including publication, related to the SEP must include the enforcement statement as stated below in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations, including permits that may be required prior to commencement of the SEP. The Commission’s approval and issuance of this Agreed Order shall not itself be construed to authorize any activity for which Respondent is required by statute or rule to obtain authorization from the Commission.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed below in Subsection C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent’s signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the efficacy of the wastewater treatment, thereby reducing pollutants contained in its wastewater discharged into the environment. 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 shall spend at least the SEP Offset Amount to complete the project described above in Section 1.A and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project. Costs in excess of the SEP Offset Amount shall not be grounds to relieve Respondent of its obligations to perform this SEP.

Estimated Cost Schedule

Item	Total
Mechanical Bar Screen	\$650,000
Total	\$650,000

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 130 days after the effective date of this Agreed Order.

Executive Director ("ED") staff may grant an extension to any deadline for Respondent's performance of the SEP described herein, upon a written and substantiated showing of good cause. All requests for extensions must be made by Respondent and shall be made in writing to ED staff. Extensions are not effective until Respondent receives written approval from ED staff. The determination of what constitutes good cause rests solely with ED staff. Extension requests shall be sent to the SEP Coordinator by first class mail or electronic mail, at:

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

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to TCEQ describing actions performed to date to implement the Project. Within 30 days after the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 130-day timeframe set forth above in Section 2, Performance Schedule.

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
130	Notice of SEP completion

B. Final Report

Within 130 days after the effective date of the Agreed Order, or within 30 days after completion of the SEP, whichever is earlier, Respondent shall submit a Final Report to TCEQ, which shall include the following:

1. An itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
4. Copies of proof of advertisement of invitation for bids, if applicable;
5. A certified statement of SEP completion and document authentication;
6. A detailed map showing the specific location of the project site(s);
7. Copies of all engineering plans related to work performed pursuant to the Project, if applicable;
8. Dated photographs of the purchased materials and supplies; before and after work being performed during the Project; and of the completed Project; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.

C. Submittals

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

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

Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to the SEP Coordinator at the address provided above.

6. Publicity

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

7. Recognition

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

8. Other SEPs by TCEQ or Other Agencies

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