CAPTION: Docket No. 2010-1543-MWD-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Montgomery County Municipal Utility District No. 42 in Montgomery County; RN102341526; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jeremy Escobar, Laurie Eaves)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1543-MWD-E **TCEQ ID:** RN102341526 **CASE NO.:** 40383

RESPONDENT NAME: Montgomery County Municipal Utility District No. 42

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Montgomery County Municipal Utility District No. 42, on the east bank of the West Fork of the San Jacinto River, approximately 3,000 feet northwest of the intersection of La Salle Avenue and State Highway 105, Montgomery County

TYPE OF OPERATION: Domestic wastewater treatment plant

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 21, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Ms. Maria Parker, President, Montgomery County Municipal Utility District No. 42, 3 Greenway Plaza, Suite 2000, Houston, Texas 77046

Mr. John Harper, Vice President, Montgomery County Municipal Utility District No. 42, 3 Greenway Plaza, Suite 2000, Houston, Texas 77046

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 7, 2010 **Date of NOV/NOE Relating to this Case:** September 3, 2010 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failed to provide the required gas chlorination system for wastewater treatment facility discharges into the Lake Houston watershed. Specifically, the Respondent failed to install a dual-feed gas chlorination system capable of automatically changing from one cylinder to another for disinfection [30 TEX. ADMIN. CODE §§ 305.125(5) and 311.36, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011963001, Other Requirements No. 4]. 2) Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009 by the September 1, 2009 due date [30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0011963001, Sludge Provisions].	**Total Assessed:** $8,740 **Total Deferred:** $1,748 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $6,992 **Compliance History Classifications:** Person/CN - Average Site/RN - Average **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2009 on July 21, 2010. **Ordering Provisions:** The Order will require the Respondent to: a. Within 45 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that permit reporting requirements are properly accomplished, including the annual sludge reports; b. Within 90 days after the effective date of this Agreed Order, either i. Connect to the City of Conroe domestic wastewater treatment system and submit a closure plan for review and approval, or ii. Install a dual-feed chlorination system; c. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions a. and b., using the certification language given in Ordering Provision d. d. If the Respondent closes the Facility, within 245 days after the effective date of this Agreed Order, submit written certification that the Facility has been closed in accordance with the approved closure plan as described below, and include detailed supporting documentation including photographs, receipts, and/or other records.

Additional ID No(s).: WQ0011963001

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision October 30, 2008*

TCEQ

DATES						
Assigned	7-Sep-2010					
PCW	13-Sep-2010	**Screening**	13-Sep-2010	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	Montgomery County Municipal Utility District No. 42		
Reg. Ent. Ref. No.	RN102341526		
Facility/Site Region	12-Houston	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	40383	**No. of Violations**	2
Docket No.	2010-1543-MWD-E	**Order Type**	1660
Media Program(s)	Water Quality	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Jeremy Escobar
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: **$7,600**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History — **15.0%** Enhancement — *Subtotals 2, 3, & 7*: **$1,140**

Notes: Enhancement for one NOV with same/similar violations, and five NOVs with dissimilar violations.

Culpability — No — **0.0%** Enhancement — *Subtotal 4*: **$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5*: **$0**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts $7,393
Approx. Cost of Compliance $150,350
**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$8,740**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **0.0%** — *Adjustment*: **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$8,740**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$8,740**

DEFERRAL — **20.0%** Reduction — *Adjustment*: **-$1,748**

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: **$6,992**

Screening Date 13-Sep-2010 **Docket No.** 2010-1543-MWD-E **PCW**

Respondent Montgomery County Municipal Utility District No. · *Policy Revision 2 (September 2002)*

Case ID No. 40383 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102341526

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	1	5%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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) 15%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, and five NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 15%

Screening Date 13-Sep-2010 **Docket No.** 2010-1543-MWD-E **PCW**

Respondent Montgomery County Municipal Utility District No. 42 *Policy Revision 2 (September 2002)*

Case ID No. 40383 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102341526

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(5) and 311.36, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011963001, Other Requirements No. 4

Violation Description Failed to provide the required gas chlorination system for wastewater treatment facility discharges into the Lake Houston watershed. Specifically, failed to install a dual-feed gas chlorination system capable of automatically changing from one cylinder to another for disinfection.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 3 — 68 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $7,500

Three monthly events are recommended from the July 7, 2010 investigation date to the September 13, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $7,377

Statutory Limit Test

Violation Final Penalty Total $8,625

This violation Final Assessed Penalty (adjusted for limits) $8,625

Economic Benefit Worksheet

Respondent Montgomery County Municipal Utility District No. 42
Case ID No. 40383
Req. Ent. Reference No. RN102341526
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
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)	$150,000	7-Jul-2010	1-Jul-2011	0.98	$7,377	n/a	$7,377
Notes for DELAYED costs	Estimated cost to install a dual-feed chlorination system. Required date is the date of the investigation. Final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] 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 [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $150,000

TOTAL $7,377

Screening Date 13-Sep-2010 **Docket No.** 2010-1543-MWD-E **PCW**

Respondent Montgomery County Municipal Utility District No. 42 *Policy Revision 2 (September 2002)*

Case ID No. 40383 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102341526

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. WQ0011963001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009 by the September 1, 2009 due date.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
Release	Major	Moderate	Minor	
Actual				
Potential				

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 1 — 323 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal $100

Economic Benefit (EB) for this violation

Estimated EB Amount $17

Statutory Limit Test

Violation Final Penalty Total $115

This violation Final Assessed Penalty (adjusted for limits) $115

Economic Benefit Worksheet

Respondent Montgomery County Municipal Utility District No. 42
Case ID No. 40383
Req. Ent. Reference No. RN102341526
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	Onetime Costs	EB Amount
	No commas or $						
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	$100	1-Sep-2009	21-Jul-2010	0.88	$4	n/a	$4
Training/Sampling	$250	7-Jul-2010	1-Jul-2011	0.98	$12	n/a	$12
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 cost to prepare and submit the completed annual sludge report and update the facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished. Dates required are the date the sludge report was due and the date of the investigation respectively. The final dates are the date the revised sludge report was received and the expected date of compliance for the training.

Avoided Costs — ANNUALIZE [1] 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 [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $350

TOTAL $17

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600736078	Montgomery County MUD 42	Classification: AVERAGE	Rating: 0.24
Regulated Entity:	RN102341526	MONTGOMERY COUNTY MUD 42	Classification: AVERAGE	Site Rating: 0.24

ID Number(s):

WASTEWATER	PERMIT	WQ0011963001
WASTEWATER	EPA ID	TX0076368
WASTEWATER LICENSING	LICENSE	WQ0011963001

Location: on the east bank of the West Fork of the San Jacinto River, approximately 3,000 feet northwest of the intersection of La Salle Avenue and State Highway 105 in Montgomery County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 28, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 13, 2005 to September 13, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jeremy Escobar Phone: (361) 825-3422

Site Compliance History Components

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
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	11/22/2005	(475809)
2	11/22/2005	(475810)
3	03/02/2006	(503099)
4	03/03/2006	(475811)
5	03/03/2006	(475812)
6	03/03/2006	(475813)
7	03/29/2006	(503100)
8	04/24/2006	(503101)
9	06/19/2006	(503102)
10	07/05/2006	(525445)
11	07/05/2006	(525446)
12	07/21/2006	(482053)
13	08/15/2006	(525447)
14	08/15/2006	(525448)
15	11/10/2006	(585193)
16	11/10/2006	(585194)
17	03/28/2007	(585188)
18	03/29/2007	(585187)
19	03/29/2007	(585195)
20	03/29/2007	(585196)
21	03/29/2007	(585197)
22	04/20/2007	(585189)
23	05/17/2007	(585190)
24	06/20/2007	(585191)
25	07/19/2007	(585192)
26	08/24/2007	(604511)
27	09/20/2007	(604512)
28	10/10/2007	(604513)
29	11/16/2007	(623594)
30	12/07/2007	(623595)
31	01/07/2008	(623596)
32	02/20/2008	(674846)
33	03/19/2008	(674847)

34	04/22/2008	(674848)
35	05/14/2008	(640107)
36	05/16/2008	(693198)
37	06/18/2008	(693199)
38	07/14/2008	(685102)
39	07/25/2008	(693200)
40	09/22/2008	(714431)
41	09/22/2008	(714432)
42	10/20/2008	(714433)
43	12/02/2008	(730386)
44	12/19/2008	(730387)
45	01/16/2009	(730388)
46	02/19/2009	(753624)
47	03/16/2009	(753625)
48	04/14/2009	(753626)
49	05/13/2009	(771058)
50	06/05/2009	(771059)
51	08/12/2009	(813037)
52	08/20/2009	(813038)
53	09/14/2009	(813039)
54	10/12/2009	(813040)
55	11/20/2009	(813041)
56	12/14/2009	(813042)
57	01/15/2010	(813043)
58	02/17/2010	(813036)
59	03/11/2010	(833802)
60	04/19/2010	(833803)
61	05/21/2010	(833804)
62	06/15/2010	(847169)
63	07/21/2010	(861630)
64	09/03/2010	(829870)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 12/31/2005 (503102) CN600736078
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/24/2006 (482053)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the permitted effluent limits.

Date: 07/31/2006 (525448) CN600736078
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 07/31/2007 (604511) CN600736078
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

Date 05/14/2008 (640107) CN600736078
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)
Description: Failure to submit the annual sludge report as required by the permit.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to adequately operate and maintain the wastewater treatment plant.

Date 06/30/2010 (861630) CN600736078
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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	
MONTGOMERY COUNTY	**§**	**TEXAS COMMISSION ON**
MUNICIPAL UTILITY DISTRICT	**§**	
NO. 42	**§**	
RN102341526	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1543-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Montgomery County Municipal Utility District No. 42 ("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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment plant on the east bank of the West Fork of the San Jacinto River, approximately 3,000 feet northwest of the intersection of La Salle Avenue and State Highway 105 in Montgomery County, Texas (the "Facility").

2. The Respondent has committed any other act or engaged in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 8, 2010.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Seven Hundred Forty Dollars ($8,740) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Nine Hundred Ninety-Two Dollars ($6,992) of the administrative penalty and One Thousand Seven Hundred Forty-Eight Dollars ($1,748) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2009 on July 21, 2010.

10. 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 or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide the required gas chlorination system for wastewater treatment facility discharges into the Lake Houston watershed, in violation of 30 TEX. ADMIN. CODE §§ 305.125(5) and 311.36, and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011963001, Other Requirements No. 4, as documented during an investigation conducted on July 7, 2010. Specifically, the Respondent failed to install a dual-feed gas chlorination system capable of automatically changing from one cylinder to another for disinfection.

2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2009 by the September 1, 2009 due date, in violation of 30 TEX. ADMIN. CODE § 305.125(17), and TPDES Permit No. WQ0011963001, Sludge Provisions, as documented during an investigation conducted on July 7, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Montgomery County Municipal Utility District No. 42, Docket No. 2010-1543-MWD-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Within 45 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that permit reporting requirements are properly accomplished, including the annual sludge reports, in accordance with TPDES Permit No. WQ0011963001, Sludge Provisions;

   b. Within 90 days after the effective date of this Agreed Order, either

      i. Connect to the City of Conroe domestic wastewater treatment system and submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permitting Section (MC148), Water Quality Division, in accordance with TPDES Permit No. WQ00111963001, Operational Requirements 3.b., or

      ii. Install a dual-feed chlorination system, in accordance with TPDES Permit No. WQ0011963001, Other Requirements No. 4 and 30 TEX. ADMIN. CODE § 311.36;

   c. Within 105 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a. and 2.b., using the certification language given in Ordering Provision No. 2.d. below:

   d. If the Respondent closes the Facility, within 245 days after the effective date of this Agreed Order, submit written certification that the Facility has been closed in

accordance with the approved closure plan as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be notarized by a State of Texas Notary Public and 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:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.

6. This Agreed 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 Agreed 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.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 4/21/2011
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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 Attorney General's Office 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 Attorney General's Office 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.

_____ 11/5/2011
Signature Date

John Harper Vice President
Name (Printed or typed) Title
Authorized Representative of
Montgomery County Municipal Utility District No. 42

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.