

**Executive Summary – Enforcement Matter – Case No. 46306**  
**MacBee Special Utility District**  
**RN101204410**  
**Docket No. 2013-0426-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

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

MacBee SUD, located on Farm-to-Market 2475, north of Wills Point, Van Zandt County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 21, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$357

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$357

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

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 46306  
MacBee Special Utility District  
RN101204410  
Docket No. 2013-0426-PWS-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** January 7, 2013  
**Date(s) of NOE(s):** January 23, 2013

***Violation Information***

Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for total haloacetic acids ("HAA5") on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(5)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require Respondent to:

- a. Within 365 days, return to compliance with the running annual average MCL for HAA5; and
- b. Within 380 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** John Simmons, General Manager, MacBee Special Utility District, P.O. Box 780, Wills Point, Texas 75169  
William Summitt, President, MacBee Special Utility District, P.O. Box 780, Wills Point, Texas 75169  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Jan-2013	<b>Screening</b>	18-Feb-2013	<b>EPA Due</b>	
	<b>PCW</b>	27-Feb-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	MacBee Special Utility District		
<b>Reg. Ent. Ref. No.</b>	RN101204410		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	46306	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0426-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Cheryl Thompson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$300
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	19.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$57
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<b>Notes</b>	Enhancement for three NOVs with same/similar violations and two NOVs with dissimilar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$526	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$357
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$357
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$357
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	No deferral is recommended for Findings Orders.
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<b>PAYABLE PENALTY</b>	\$357
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**Screening Date** 18-Feb-2013

**Docket No.** 2013-0426-PWS-E

**PCW**

**Respondent** MacBee Special Utility District

Policy Revision 3 (September 2011)

**Case ID No.** 46306

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101204410

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Cheryl Thompson

### 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 ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	2	4%
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 judgements 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%
<i>Please Enter Yes or No</i>			
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)** 19%

>> **Repeat Violator (Subtotal 3)**

N/A

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

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for three NOVs with same/similar violations and two NOVs with dissimilar violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 19%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 19%

Screening Date 18-Feb-2013

Docket No. 2013-0426-PWS-E

PCW

Respondent MacBee Special Utility District

Policy Revision 3 (September 2011)

Case ID No. 46306

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101204410

Media [Statute] Public Water Supply

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(5)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for total haloacetic acids ("HAA5") on a running annual average. Specifically, it was documented that the running annual average concentration for HAA5 was 0.075 mg/L for the second quarter in 2012, 0.081 mg/L for the third quarter of 2012 and 0.083 mg/L for the fourth quarter in 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Exceeding the MCL for HAA5 caused the persons served by the Facility to be exposed to significant amounts of pollutants which do not exceed levels protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$300

One annual 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 \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$526

Violation Final Penalty Total \$357

This violation Final Assessed Penalty (adjusted for limits) \$357

## Economic Benefit Worksheet

**Respondent** MacBee Special Utility District  
**Case ID No.** 46306  
**Reg. Ent. Reference No.** RN101204410  
**Media** Public Water Supply  
**Violation No.** 1

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)	\$5,000	30-Jun-2012	31-Dec-2013	1.50	\$25	\$501	\$526
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 cost to implement an alternative disinfection method to reduce or eliminate the HAA5 levels. Dated required is the date of the first quarter of non-compliance and the final date is the projected 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

\$5,000

**TOTAL**

\$526



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601458581, RN101204410, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN601458581, MacBee Special Utility District **Classification:** NOT APPLICABLE **Rating:** N/A  
**Regulated Entity:** RN101204410, MACBEE SUD **Classification:** NOT APPLICABLE **Rating:** N/A  
**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other  
**Location:** LOCATED FM 2475 N OF WILLS POINT IN VAN ZANDT COUNTY  
**TCEQ Region:** REGION 05 - TYLER

**ID Number(s):**  
**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 2340012 **WATER LICENSING LICENSE** 2340012

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** February 21, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 21, 2008 to February 21, 2013

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** Cheryl Thompson **Phone:** (817) 588-5886

**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
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**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 April 28, 2008 (646394)

**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: 04/06/2012 (990224) CN601458581  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
 Description: Failure to have 2.0 gpm per connection of service pump capacity in Pressure Plane 3, Plant F (Edgewood).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)(1)  
 Description: Failure to provide adequate customer service inspection (CSI) reports.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 291, SubChapter F 291.93(3)(A)  
 Description: Failure to provide a planning report.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure to maintain the filter building and associated contents.

	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)		
	Description:	Failure to provide a treatment plant capacity of 0.6 (or current exception rate) per connection under normal rate design flow.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)		
	Description:	Failure to rotate bacteriological samples according to sample site plan.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(6)		
	Description:	Failure by the water system to repair a known leak.		
2	Date:	08/01/2012 (1016147)	CN601458581	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 291, SubChapter F 291.93(3)(A)		
	Description:	Failure to provide a planning report.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
	Description:	Failure to maintain the filter building and associated contents.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(2)(B)		
	Description:	Failure to provide a treatment plant capacity of 0.6 (or current exception rate) per connection under normal rate design flow.		
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)		
	Description:	Failure to rotate bacteriological samples according to sample site plan.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(6)		
	Description:	Failure by the water system to repair a known leak.		
3	Date:	08/21/2012 (1054226)	CN601458581	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(5)		
	Description:	HAA5 MCL 2Q2012 - The system violated the maximum contaminant level for haloacetic acids during the 2nd quarter of 2012.		
4	Date:	09/13/2012 (1054226)	CN601458581	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(5)		
	Description:	HAA5 MCL 3Q2012 - The system violated the maximum contaminant level for haloacetic acids during the 3rd quarter of 2012.		
5	Date:	01/07/2013 (1054226)	CN601458581	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(5)		
	Description:	HAA5 MCL 4Q2012 - The system violated the maximum contaminant level for haloacetic acids during the 4th quarter of 2012.		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

*Published Compliance History Report for CN601458581, RN101204410, Rating Year 2012 which includes Compliance History (CH) components from February 21, 2008, through February 21, 2013.*

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  
MACBEE SPECIAL UTILITY  
DISTRICT  
RN101204410**

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

**AGREED ORDER  
DOCKET NO. 2013-0426-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MacBee Special Utility District ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, 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 Agreed 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 settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located on Farm-to-Market Road 2475, north of Wills Point in Van Zandt County, Texas (the "Facility") that has

approximately 1,219 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on January 7, 2013, TCEQ staff documented, that the Respondent did not comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for total haloacetic acids ("HAA5") on a running annual average. Specifically, it was documented that the running annual average concentration for HAA5 was 0.075 mg/L for the second quarter in 2012, 0.081 mg/L for the third quarter of 2012 and 0.083 mg/L for the fourth quarter in 2012.
3. The Respondent received notice of the violations on January 28, 2013.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.060 mg/L for HAA5 on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission'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 Three Hundred Fifty-Seven Dollars (\$357) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Three Hundred Fifty-Seven Dollar (\$357) administrative penalty.

## **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Hundred Fifty-Seven Dollars (\$357) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MacBee Special Utility District, Docket No. 2013-0426-PWS-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 undertake the following technical requirements:
  - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
  - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Ordering Provision No. 2.a. 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:

Public Drinking Water Section Manager, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

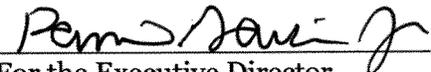
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. 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.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. 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.
8. 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.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

8/13/13  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of MacBee Special Utility District. I am authorized to agree to the attached Agreed Order on behalf of MacBee Special Utility District, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, MacBee Special Utility District waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

  
Signature

4-2-2013  
Date

John Simmons  
Name (Printed or typed)  
Authorized Representative of  
MacBee Special Utility District

General Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order