

Executive Summary – Enforcement Matter – Case No. 51583
Faulkey Gully Municipal Utility District
RN102178993
Docket No. 2015-1779-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Faulkey Gully MUD, located at 15503 Hermitage Oaks Drive, north of Louetta Road and west of State Highway 249, east of North Eldridge Parkway, Tomball, Harris County

Type of Operation:

Wastewater treatment system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 8, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,937

Amount Deferred for Expedited Settlement: \$4,387

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$17,550

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

**Executive Summary – Enforcement Matter – Case No. 51583
Faulkey Gully Municipal Utility District
RN102178993
Docket No. 2015-1779-MWD-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: October 7, 2015
Date(s) of NOE(s): November 10, 2015

Violation Information

Failed to comply with permitted effluent limits for total copper, ammonia nitrogen, and *Escherichia coli* [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011832001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 90 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011832001, 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.

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: Ronica Rodriguez, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2601; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Kenneth R. Kana, President, Faulkey Gully Municipal Utility District, 13310 Louetta Road, Cypress, Texas 77429
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	16-Nov-2015	Screening	30-Nov-2015	EPA Due	5-Mar-2016
	PCW	3-Dec-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Faulkey Gully Municipal Utility District		
Reg. Ent. Ref. No.	RN102178993		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	51583	No. of Violations	2
Docket No.	2015-1779-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ronica Rodriguez
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Adjustment **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount
 Estimated Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 30-Nov-2015

Docket No. 2015-1779-MWD-E

PCW

Respondent Faulkley Gully Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 51583

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102178993

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

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	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%

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) 17%

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

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 17%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 17%

Screening Date 30-Nov-2015

Docket No. 2015-1779-MWD-E

PCW

Respondent Faulkey Gully Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 51583

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102178993

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011832001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on October 7, 2015, and as shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

Matrix Notes

Simplified models were used to evaluate values for total copper and ammonia nitrogen to determine whether the discharged amounts exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or the environment.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 3 Number of violation days 92

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$11,250

Three quarterly events are recommended for the quarters containing the months of October 2014, June 2015, and July 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$974

Violation Final Penalty Total \$13,163

This violation Final Assessed Penalty (adjusted for limits) \$13,163

Economic Benefit Worksheet

Respondent Faulkey Gully Municipal Utility District

Case ID No. 51583

Reg. Ent. Reference No. RN102178993

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	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				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)	\$10,000	31-Oct-2014	11-Oct-2016	1.95	\$974	n/a	\$974

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and implement corrective actions. Date required is the initial date of noncompliance. 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

\$10,000

TOTAL

\$974

Screening Date 30-Nov-2015

Docket No. 2015-1779-MWD-E

PCW

Respondent Faulkey Gully Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 51583

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102178993

Media [Statute] Water Quality

Enf. Coordinator Ronica Rodriguez

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011832001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on October 7, 2015, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of May 2015.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/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

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$8,775

This violation Final Assessed Penalty (adjusted for limits) \$8,775

Economic Benefit Worksheet

Respondent Faulkey Gully Municipal Utility District
Case ID No. 51583
Reg. Ent. Reference No. RN102178993
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
<i>No commas or \$</i>							

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

See Economic Benefit for violation No. 1.

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

\$0

TOTAL

\$0

Faulkey Gully Municipal Utility District
TPDES Permit No. WQ0011832001
Docket No. 2015-1779-MWD-E

Effluent Violation Table					
Monitoring Period	Permitted Effluent Limits				
	Total Copper Daily Average Conc. Limit = 0.0184 mg/L	Total Copper Daily Maximum Conc. Limit = 0.039 mg/L	Ammonia Nitrogen Daily Average Conc. (March – Oct.) Limit = 2 mg/L	Ammonia Nitrogen Daily Maximum Conc. Limit = 10 mg/L	<i>E. coli</i> Daily Maximum Conc. Limit = 200 CFU/100 ml
October 2014	0.0212	c	c	c	c
May 2015	c	c	c	c	>2420
June 2015	c	c	4.36	c	c
July 2015	c	0.066	<3.96	15.91	c

E. coli = *Escherichia coli*
mg/L = milligrams per liter
CFU/100 ml = colony forming units per 100 milliliters
c = compliant
Oct. = October
Conc. = concentration



Compliance History Report

PUBLISHED Compliance History Report for CN600664247, RN102178993, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator:	CN600664247 Faulkey Gully Municipal Utility District	Classification:	SATISFACTORY	Rating:	0.83
Regulated Entity:	RN102178993, FAULKEY GULLY MUD	Classification:	SATISFACTORY	Rating:	0.83
Complexity Points:	6	Repeat Violator:	NO		
CH Group:	08 - Sewage Treatment Facilities				
Location:	Located at 15503 Hermitage Oaks Drive, north of Louetta Road and west of State Highway 249, east of North Eldridge Parkway, in Tomball, Harris County, Texas.				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):					
WASTEWATER PERMIT	WQ0011832001	WASTEWATER EPA ID	TX0072354		
WASTEWATER LICENSING LICENSE	WQ0011832001				
Compliance History Period:	September 01, 2010 to August 31, 2015	Rating Year:	2015	Rating Date:	09/01/2015
Date Compliance History Report Prepared:	November 30, 2015				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	November 30, 2010 to November 30, 2015				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Ronica Rodriguez			Phone:	(512) 239-2601

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	December 15, 2010	(897225)
Item 2	January 18, 2011	(903128)
Item 3	February 11, 2011	(910049)
Item 4	March 15, 2011	(917242)
Item 5	April 21, 2011	(927751)
Item 6	May 12, 2011	(938941)
Item 7	June 13, 2011	(946320)
Item 8	July 13, 2011	(953599)

Item 9	August 11, 2011	(960216)
Item 10	September 13, 2011	(966270)
Item 11	October 11, 2011	(972284)
Item 12	November 16, 2011	(978444)
Item 13	December 05, 2011	(991536)
Item 14	December 12, 2011	(985255)
Item 15	February 20, 2012	(998882)
Item 16	March 12, 2012	(1004409)
Item 17	April 27, 2012	(1010980)
Item 18	May 11, 2012	(1017344)
Item 19	June 06, 2012	(1032483)
Item 20	June 14, 2012	(1025145)
Item 21	September 11, 2012	(1047815)
Item 22	September 12, 2012	(1038906)
Item 23	October 09, 2012	(1065751)
Item 24	January 10, 2013	(1081004)
Item 25	February 12, 2013	(1081003)
Item 26	March 13, 2013	(1090278)
Item 27	April 15, 2013	(1096646)
Item 28	May 08, 2013	(1107608)
Item 29	June 19, 2013	(1111247)
Item 30	July 10, 2013	(1118145)
Item 31	August 12, 2013	(1125938)
Item 32	September 10, 2013	(1130490)
Item 33	September 11, 2013	(1136258)
Item 34	November 13, 2013	(1141639)
Item 35	December 10, 2013	(1148096)
Item 36	January 17, 2014	(1154168)
Item 37	February 11, 2014	(1161492)
Item 38	March 07, 2014	(1168131)
Item 39	May 08, 2014	(1181481)
Item 40	July 09, 2014	(1188376)
Item 41	August 01, 2014	(1213160)
Item 42	August 21, 2014	(1200080)
Item 43	September 10, 2014	(1206751)
Item 44	December 11, 2014	(1225201)
Item 45	January 14, 2015	(1232092)
Item 46	February 11, 2015	(1243214)
Item 47	March 10, 2015	(1249576)
Item 48	April 09, 2015	(1256460)
Item 49	May 13, 2015	(1263195)

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: 01/14/2015 (1210382)	CN600664247	
	Self Report? NO		Classification: Minor
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description: Failed to properly operate the clarifier weirs.		
	Self Report? NO		Classification: Minor
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Monitoring and Reporting Rqmnts #5 PERMIT		
	Description: Failed to maintain flow measurement accuracy.		
2	Date: 05/31/2015 (1270338)	CN600664247	
	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		
3	Date: 06/30/2015 (1277868)	CN600664247	
	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

4 Date: 07/31/2015 (1284047) CN600664247
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
FAULKY GULLY MUNICIPAL
UTILITY DISTRICT
RN102178993**

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

**AGREED ORDER
DOCKET NO. 2015-1779-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Faulkey Gully Municipal Utility District ("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 together stipulate that:

1. The Respondent owns a wastewater treatment system located at 15503 Hermitage Oaks Drive, north of Louetta Road and west of State Highway 249, east of North Eldridge Parkway in Tomball, Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director 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 November 15, 2015.
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 Twenty-One Thousand Nine Hundred Thirty-Seven Dollars (\$21,937) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seventeen Thousand Five Hundred Fifty Dollars (\$17,550) of the administrative penalty and Four Thousand Three Hundred Eighty-Seven Dollars (\$4,387) 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. 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.
10. 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.
11. 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 of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011832001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 7, 2015 as shown in the violation table below:

Effluent Violation Table					
Monitoring Period	Permitted Effluent Limits				
	Total Copper Daily Average Conc. Limit = 0.0184 mg/L	Total Copper Daily Maximum Conc. Limit = 0.039 mg/L	Ammonia Nitrogen Daily Average Conc. (March – Oct.) Limit = 2 mg/L	Ammonia Nitrogen Daily Maximum Conc. Limit = 10 mg/L	<i>E. coli</i> Daily Maximum Conc. Limit = 200 CFU/100 ml
October 2014	0.0212	c	c	c	c
May 2015	c	c	c	c	>2420
June 2015	c	c	4.36	c	c
July 2015	c	0.066	<3.96	15.91	c

E. coli = *Escherichia coli*
mg/L = milligrams per liter
CFU/100 ml = colony forming units per 100 milliliters
c = compliant
Oct. = October
Conc. = concentration

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: Faulkey Gully Municipal Utility District, Docket No. 2015-1779-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. It is further ordered that within 90 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011832001, 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. 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. 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

Ramona Marie J
For the Executive Director

6/9/16
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.

KRCana
Signature

3/9/2016
Date

KENNETH R. CANA
Name (Printed or typed)
Authorized Representative of
Faulkey Gully Municipal Utility District

PRESIDENT
Title

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