

Executive Summary – Enforcement Matter – Case No. 58990
Fort Bend County Municipal Utility District No. 134A
RN104956511
Docket No. 2020-0331-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

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

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Fort Bend County MUD 134A WWTP, 1766 1/2 Sauki Lane, Fort Bend County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 21, 2020

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,000

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$12,000

Name of SEP: Galveston Bay Foundation (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 24, 2019

Date(s) of NOE(s): December 16, 2019

**Executive Summary – Enforcement Matter – Case No. 58990
Fort Bend County Municipal Utility District No. 134A
RN104956511
Docket No. 2020-0331-MWD-E**

Violation Information

Failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014715001, Permit Conditions No. 2.d].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On May 24, 2019 the Respondent diverted half of the flow from the Facility to Plant No. 2, deployed floating booms, dredged the affected receiving stream to remove settled solids and fish and properly disposed of the solids and fish, and conducted dissolved oxygen sampling to monitor and ensure dissolved levels increased.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Mark Gamble, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-2587; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Larry Muller, President, Fort Bend County Municipal Utility District No. 134A, c/o Coats Rose, P.C., 9 Greenway Plaza, Suite 1000, Houston, Texas 77046-3653

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned PCW	10-Feb-2020	Screening	20-Feb-2020	EPA Due	
		24-Feb-2020				

RESPONDENT/FACILITY INFORMATION

Respondent	Fort Bend County Municipal Utility District No. 134A		
Reg. Ent. Ref. No.	RN104956511		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	58990	No. of Violations	1
Docket No.	2020-0331-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Christopher Moreno
		EC's Team	Enforcement Team 3
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	\$58
Estimated Cost of Compliance	\$12,000

*Capped at the Total EB \$ Amount

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.

Notes

PAYABLE PENALTY

Screening Date 20-Feb-2020

Docket No. 2020-0331-MWD-E

PCW

Respondent Fort Bend County Municipal Utility District No. 134A

Policy Revision 4 (April 2014)

Case ID No. 58990

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104956511

Media Water Quality

Enf. Coordinator Christopher Moreno

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 20-Feb-2020

Docket No. 2020-0331-MWD-E

PCW

Respondent Fort Bend County Municipal Utility District No. 134A

Policy Revision 4 (April 2014)

Case ID No. 58990

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN104956511

Media Water Quality

Enf. Coordinator Christopher Moreno

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (4), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014715001, Permit Conditions No. 2.d

Violation Description Failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment. Specifically, on April 19, 2019, heavy inflow/infiltration resulted in overloading of the Facility which caused a discharge of an unknown amount of partially treated wastewater sludge into Red Gully, killing approximately 38 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (30.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2 Number of violation days 35

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event) and checkboxes.

Violation Base Penalty \$15,000

Two monthly events are recommended from the April 19, 2019 discharge date to the May 24, 2019 compliance date.

Good Faith Efforts to Comply

25.0% Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Reduction \$3,750

Table with columns: Effort Level (Extraordinary, Ordinary, N/A) and checkboxes.

Notes The Respondent returned to compliance on May 24, 2019.

Violation Subtotal \$11,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$58

Violation Final Penalty Total \$12,000

This violation Final Assessed Penalty (adjusted for limits) \$12,000

Economic Benefit Worksheet

Respondent Fort Bend County Municipal Utility District No. 134A

Case ID No. 58990

Reg. Ent. Reference No. RN104956511

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$12,000	19-Apr-2019	24-May-2019	0.10	\$58	n/a	\$58
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Remediation/disposal cost is the estimated amount to divert half of the flow from the Facility to Plant No. 2, deploy floating booms, dredge the affected receiving stream to remove settled solids and fish and properly dispose of the solids and fish, and conduct dissolved oxygen sampling to monitor and ensure dissolved levels increased. Date required is the date of the discharge and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$12,000

TOTAL \$58

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN603653288, RN104956511, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN603653288, Fort Bend County Municipal Utility District No. 134A **Classification:** SATISFACTORY **Rating:** 0.71

Regulated Entity: RN104956511, Fort Bend County MUD 134A WWTP **Classification:** HIGH **Rating:** 0.00

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 1766 1/2 Sauki Lane, in Fort Bend County, Texas 77407

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): WASTEWATER PERMIT WQ0014715001 WASTEWATER EPA ID TX0128791

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: February 20, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: February 20, 2015 to February 20, 2020

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

Name: Christopher Moreno **Phone:** (254) 761-3038

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	March 19, 2015	(1250818)	Item 15	July 20, 2016	(1361284)
Item 2	April 13, 2015	(1257707)	Item 16	September 16, 2016	(1374444)
Item 3	May 09, 2015	(1264479)	Item 17	September 29, 2016	(1367697)
Item 4	June 12, 2015	(1271560)	Item 18	October 19, 2016	(1380590)
Item 5	July 16, 2015	(1279114)	Item 19	November 16, 2016	(1386542)
Item 6	September 17, 2015	(1292403)	Item 20	December 15, 2016	(1392666)
Item 7	September 29, 2015	(1285334)	Item 21	January 18, 2017	(1399284)
Item 8	October 20, 2015	(1298578)	Item 22	February 17, 2017	(1406186)
Item 9	November 20, 2015	(1304027)	Item 23	March 17, 2017	(1413294)
Item 10	December 17, 2015	(1311027)	Item 24	April 18, 2017	(1419757)
Item 11	January 20, 2016	(1317797)	Item 25	May 18, 2017	(1427406)
Item 12	March 11, 2016	(1333938)	Item 26	June 19, 2017	(1433396)
Item 13	April 20, 2016	(1341065)	Item 28	July 18, 2017	(1441975)
Item 14	June 18, 2016	(1354282)	Item 29	August 15, 2017	(1445640)

Item 30	October 19, 2017	(1458103)	Item 43	November 16, 2018	(1543583)
Item 31	November 16, 2017	(1463532)	Item 44	December 18, 2018	(1547287)
Item 32	December 20, 2017	(1469978)	Item 45	January 17, 2019	(1566077)
Item 33	January 18, 2018	(1476673)	Item 46	February 15, 2019	(1566075)
Item 34	February 17, 2018	(1488830)	Item 47	March 19, 2019	(1566076)
Item 35	March 19, 2018	(1492492)	Item 48	April 18, 2019	(1573940)
Item 36	April 19, 2018	(1495796)	Item 49	May 19, 2019	(1587468)
Item 37	May 18, 2018	(1502751)	Item 50	June 18, 2019	(1587469)
Item 38	June 18, 2018	(1509845)	Item 51	July 19, 2019	(1595311)
Item 39	July 20, 2018	(1516167)	Item 52	September 19, 2019	(1608487)
Item 40	September 18, 2018	(1529404)	Item 53	September 30, 2019	(1601580)
Item 41	September 26, 2018	(1522209)	Item 54	November 18, 2019	(1621162)
Item 42	October 18, 2018	(1535711)	Item 55	December 17, 2019	(1628500)

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: 09/30/2019 (1615361)
 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

Component Appendices

Appendix A

All NOV's Issued During Component Period 2/20/2015 and 2/20/2020

- | | | | | | |
|---|--------------|--|---------------------------------|-----------------|----------|
| 1 | Date: | 01/31/2016 | (1327147) | Classification: | Moderate |
| | Self Report? | YES | For Informational Purposes Only | | |
| | 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 | | | |
| | | | | | |
| 2 | Date: | 04/30/2016 | (1347871) | Classification: | Moderate |
| | Self Report? | YES | For Informational Purposes Only | | |
| | 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: | 08/31/2017 | (1452234) | Classification: | Moderate |
| | Self Report? | YES | For Informational Purposes Only | | |
| | 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: | 09/30/2019 | (1615361) | Classification: | Moderate |
| | Self Report? | YES | For Informational Purposes Only | | |
| | 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 | | | |

* NOV's applicable for the Compliance History rating period 9/1/2014 to 8/31/2019

Appendix B

All Investigations Conducted During Component Period February 20, 2015 and February 20, 2020

- | | | | |
|---------|----------------------|-----------|---------------------------------|
| Item 1* | March 19, 2015** | (1250818) | For Informational Purposes Only |
| Item 2* | April 13, 2015** | (1257707) | For Informational Purposes Only |
| Item 3* | May 09, 2015** | (1264479) | For Informational Purposes Only |
| Item 4* | June 12, 2015** | (1271560) | For Informational Purposes Only |
| Item 5* | July 16, 2015** | (1279114) | For Informational Purposes Only |
| Item 6* | September 17, 2015** | (1292403) | For Informational Purposes Only |
| Item 7* | September 29, 2015** | (1285334) | For Informational Purposes Only |
| Item 8* | October 20, 2015** | (1298578) | For Informational Purposes Only |
| Item 9* | November 20, 2015** | (1304027) | For Informational Purposes Only |

Item 10*	December 17, 2015**	(1311027) For Informational Purposes Only
Item 11*	January 20, 2016**	(1317797) For Informational Purposes Only
Item 12	February 16, 2016**	(1327147) For Informational Purposes Only
Item 13*	March 11, 2016**	(1333938) For Informational Purposes Only
Item 14*	April 20, 2016**	(1341065) For Informational Purposes Only
Item 15	May 20, 2016**	(1347871) For Informational Purposes Only
Item 16*	June 18, 2016**	(1354282) For Informational Purposes Only
Item 17*	July 20, 2016**	(1361284) For Informational Purposes Only
Item 18*	September 16, 2016**	(1374444) For Informational Purposes Only
Item 19*	September 29, 2016**	(1367697) For Informational Purposes Only
Item 20*	October 19, 2016**	(1380590) For Informational Purposes Only
Item 21*	November 16, 2016**	(1386542) For Informational Purposes Only
Item 22*	December 15, 2016**	(1392666) For Informational Purposes Only
Item 23*	January 18, 2017**	(1399284) For Informational Purposes Only
Item 24*	February 17, 2017**	(1406186) For Informational Purposes Only
Item 25*	March 17, 2017**	(1413294) For Informational Purposes Only
Item 26*	April 18, 2017**	(1419757) For Informational Purposes Only
Item 27*	May 18, 2017**	(1427406) For Informational Purposes Only
Item 28*	June 19, 2017**	(1433396) For Informational Purposes Only
Item 29*	July 18, 2017**	(1441975) For Informational Purposes Only
Item 30*	August 15, 2017**	(1445640) For Informational Purposes Only
		(1452234)

Item 31	October 03, 2017**	For Informational Purposes Only (1458103)
Item 32*	October 19, 2017**	For Informational Purposes Only (1463532)
Item 33*	November 16, 2017**	For Informational Purposes Only (1469978)
Item 34*	December 20, 2017**	For Informational Purposes Only (1476673)
Item 35*	January 18, 2018**	For Informational Purposes Only (1488830)
Item 36*	February 17, 2018**	For Informational Purposes Only (1492492)
Item 37*	March 19, 2018**	For Informational Purposes Only (1495796)
Item 38*	April 19, 2018**	For Informational Purposes Only (1502751)
Item 39*	May 18, 2018**	For Informational Purposes Only (1509845)
Item 40*	June 18, 2018**	For Informational Purposes Only (1516167)
Item 41*	July 20, 2018**	For Informational Purposes Only (1529404)
Item 42*	September 18, 2018**	For Informational Purposes Only (1522209)
Item 43*	September 26, 2018**	For Informational Purposes Only (1535711)
Item 44*	October 18, 2018**	For Informational Purposes Only (1543583)
Item 45*	November 16, 2018**	For Informational Purposes Only (1526094)
Item 46	December 07, 2018**	For Informational Purposes Only (1547287)
Item 47*	December 18, 2018**	For Informational Purposes Only (1566077)
Item 48*	January 17, 2019**	For Informational Purposes Only (1566075)
Item 49*	February 15, 2019**	For Informational Purposes Only (1566076)
Item 50*	March 19, 2019**	For Informational Purposes Only (1573940)
Item 51*	April 18, 2019**	For Informational Purposes Only (1587468)
Item 52*	May 19, 2019**	For Informational Purposes Only

Item 53*	June 18, 2019**	(1587469) For Informational Purposes Only
Item 54*	July 19, 2019**	(1595311) For Informational Purposes Only
Item 55	September 13, 2019	(1576908) For Informational Purposes Only
Item 56*	September 19, 2019	(1608487) For Informational Purposes Only
Item 57*	September 30, 2019	(1601580) For Informational Purposes Only
Item 58	October 15, 2019	(1615361) For Informational Purposes Only
Item 59*	November 18, 2019	(1621162) For Informational Purposes Only
Item 60	December 16, 2019	(1558872) For Informational Purposes Only
Item 61*	December 17, 2019	(1628500) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2014 and 08/31/2019.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FORT BEND COUNTY
MUNICIPAL UTILITY DISTRICT
NO. 134A
RN104956511**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2020-0331-MWD-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Fort Bend County Municipal Utility District No. 134A (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 1766 1/2 Sauki Lane, in Fort Bend County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During an investigation conducted on April 24, 2019, an investigator documented that on April 19, 2019, heavy inflow/infiltration resulted in overloading of the Facility which caused a discharge of an unknown amount of partially treated wastewater sludge into Red Gully, killing approximately 38 fish.
3. The Executive Director recognizes that on May 24, 2019, the Respondent diverted half of the flow from the Facility to Plant No. 2, deployed floating booms, dredged the affected receiving stream to remove settled solids and fish and properly disposed of the solids and

fish, and conducted dissolved oxygen sampling to monitor and ensure dissolved levels increased.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0014715001, Permit Conditions No. 2.d.
3. Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$12,000 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Pursuant to TEX. WATER CODE § 7.067, \$12,000 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A" - incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Fort Bend County Municipal Utility District No. 134A, Docket No. 2020-0331-MWD-E" to:

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

2. The Respondent shall implement and complete an SEP as set forth in Conclusion of Law No. 4. The amount of \$12,000 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

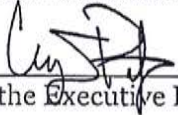
10. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
11. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



05/12/2021

For the Executive Director

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

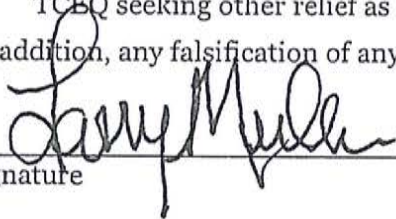
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the 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

Date



12/3/2020

Name (Printed or typed)

Title

Larry Muller

President

Authorized Representative of
Fort Bend County Municipal Utility District No. 134A

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A
Docket Number: 2020-0331-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Fort Bend County Municipal Utility District No. 134A
Payable Penalty Amount:	\$12,000
SEP Offset Amount:	\$12,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Galveston Bay Foundation
Project Name:	<i>Galveston Bay “Marsh Mania” Restoration Program</i>
Location of SEP:	Harris, Galveston, Chambers, and Brazoria Counties

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Galveston Bay Foundation** for the *Galveston Bay “Marsh Mania” Restoration Program*. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ (the “Project”). Specifically, the SEP Offset Amount will be used to re-establish marsh habitat to Galveston Bay by restoring marsh elevations to those that will support marsh vegetation and protect marsh habitats from the threat of erosion. The Third-Party Administrator shall also plant salinity-appropriate marsh grasses to reestablish the habitat. The SEP Offset Amount will be used for on-the-ground site preparation and construction of marsh restoration sites, including supplies, materials, equipment, and contractual labor costs, excluding compensation of Galveston Bay Foundation personnel or volunteers.

Restoration work will take place in and around Galveston Bay, its sub-bays, and its tributaries throughout Harris, Galveston, Chambers, and Brazoria Counties. The specific locations will be determined based on local prioritization and needs. The Third-Party Administrator, at its own expense, shall work with local steering committees comprised of leaders from government agencies and local organizations

to identify and prioritize sites. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

Due to the loss of wetlands in the Galveston Bay system, the Galveston Bay National Estuary Program identified wetland restoration, creation, and protection as the number one priority in the *Galveston Bay Plan*. Marshes along coastal Texas, including Galveston Bay, serve as nursery grounds for over 95% of the recreational and commercial fish species found in the Gulf of Mexico as well as many varieties of shrimps and crabs. These habitats also provide breeding, nesting, and feeding grounds for more than one-third of all threatened and endangered animal species, support many endangered plant species, and provide permanent and seasonal habitat for a great variety of wildlife, including finfish and shellfish and 75% of North America's bird species. Marshes also result in the reduction of pollution by filtering particulates and excess nutrients from runoff and serve to protect shorelines from erosion and help reduce the effects of flooding and storm surges on more upland areas.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Galveston Bay Foundation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Robert Stokes, President
Galveston Bay Foundation
1100 Hercules Avenue, Suite 200
Houston, Texas 77058

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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