

Executive Summary – Enforcement Matter – Case No. 58871
Horizon Regional Municipal Utility District
RN102336955
Docket No. 2020-0184-IWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

IWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

Horizon Regional MUD Reverse Osmosis Water Treatment Plant, 14451 Horizon Boulevard with an associated disposal site located at 15000 Horizon Boulevard, Horizon City, El Paso County

Type of Operation:

Reverse osmosis water treatment plant and disposal site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 27, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$8,975

Amount Deferred for Expedited Settlement: \$1,795

Total Paid to General Revenue: \$7,180

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

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: November 20, 2019 through December 3, 2019 and October 21, 2020

Date(s) of NOE(s): January 10, 2020

Executive Summary – Enforcement Matter – Case No. 58871
Horizon Regional Municipal Utility District
RN102336955
Docket No. 2020-0184-IWD-E

Violation Information

1. Failed to maintain a minimum of 24 inches of freeboard for any open pond resulting in the unauthorized discharge of wastewater into or adjacent to any water in the state. Specifically, there was no freeboard provided at the southwestern-most part of the Facility's evaporation ponds which resulted in two unauthorized discharges from the ponds [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0004191000, Section VI., Standard Permit Conditions, Permit Conditions No. 2.g and Section V., Special Provisions, No. B.8].
2. Failed to comply with the conditions of the permit. Specifically, the permitted annual average flow limit of 0.5214 million gallons per day ("MGD") to the evaporation ponds was exceeded in the calendar years of 2017 and 2018 with annual average flows of 0.934684 MGD and 0.980726 MGD, respectively [30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0004191000, Section IV., Conditions of the Permit, Volume].
3. Failed to maintain monitoring and reporting records at the Facility and make them readily available for review by a TCEQ representative for a period of three years. Specifically, annual average flow records were not timely provided for review [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(c) and TCEQ Permit No. WQ0004191000, Section VI., Standard Permit Conditions, Monitoring Requirements No. 3.b].
4. Failed to maintain authorization to operate a reverse osmosis water treatment plant and disposal site. Specifically, TCEQ Permit No. WQ0004191000 expired on September 1, 2020, and the Respondent continued to operate without authorization [30 TEX. ADMIN. CODE § 305.65].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By January 10, 2020, provided flow monitoring records to the TCEQ El Paso Regional Office and began maintaining flow monitoring records onsite;
- b. By April 1, 2021, submitted an application to obtain coverage under TCEQ General Permit No. WQG100000; and
- c. By October 16, 2020, ceased the discharges, repaired the berms on the evaporation ponds, and installed atomizers to increase evaporation and reduce water levels in the evaporation ponds.

Executive Summary – Enforcement Matter – Case No. 58871
Horizon Regional Municipal Utility District
RN102336955
Docket No. 2020-0184-IWD-E

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately and until such time that authorization to operate is obtained or until 300 days, whichever is earlier, comply with the permit limits and conditions of expired TCEQ Permit No. WQ0004191000;
- b. Within 60 days, conduct an engineering evaluation of the Facility to determine the cause of and necessary corrective actions designed to prevent flow exceedances and the unauthorized discharge of untreated wastewater from the Facility. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days;
- c. Within 285 days, submit written certification demonstrating the completion of the corrective actions designed to prevent flow exceedances and the unauthorized discharge of untreated wastewater from the Facility; and
- d. Within 300 days, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephanie Frederick, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-1001; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Gordon Jarvis, President, Horizon Regional Municipal Utility District, 14100 Horizon Boulevard, Horizon City, Texas 79928

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	21-Jan-2020	Screening	23-Jan-2020	EPA Due	
	PCW	17-Mar-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Horizon Regional Municipal Utility District
Reg. Ent. Ref. No.	RN102336955
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	58871	No. of Violations	3
Docket No.	2020-0184-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Stephanie Frederick
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,250
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	------------------------	--------------------------------	-----

Notes: The Respondent has submitted one notice of an intended audit; however, because a reduction would be below zero, the adjustment defaults to zero.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	-------------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$25
--	-------------------	-------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	--------------------------	-------------------	-----

Total EB Amounts	\$10,703
Estimated Cost of Compliance	\$65,025

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,225
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
---	------------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$5,225
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,225
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0% Reduction	Adjustment	-\$1,045
-----------------	------------------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,180
------------------------	---------

Screening Date 23-Jan-2020

Docket No. 2020-0184-IWD-E

PCW

Respondent Horizon Regional Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 58871

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102336955

Media Water Quality

Enf. Coordinator Stephanie Frederick

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>)	0	0%
	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>)	1	-1%
	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) 0%

>> 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

The Respondent has submitted one notice of an intended audit; however, because a reduction would be below zero, the adjustment defaults to zero.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 23-Jan-2020 **Docket No.** 2020-0184-IWD-E **PCW**
Respondent Horizon Regional Municipal Utility District *Policy Revision 4 (April 2014)*
Case ID No. 58871 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN102336955
Media Water Quality
Enf. Coordinator Stephanie Frederick

Violation Number 1
Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0004191000, Section VI., Standard Permit Conditions, Permit Conditions No. 2.g and Section V., Special Provisions, No. B.8
Violation Description Failed to maintain a minimum of 24 inches of freeboard for any open pond resulting in the unauthorized discharge of wastewater into or adjacent to any water in the state. Specifically, there was no freeboard provided at the southwestern-most part of the Facility's evaporation ponds which resulted in two unauthorized discharges from the ponds, as shown in the attached table.
Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$23,750
 \$1,250

Violation Events

Number of Violation Events 2 4 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended, one for each discharge.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$10,703 **Violation Final Penalty Total** \$2,500
This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Horizon Regional Municipal Utility District
Case ID No. 58871
Reg. Ent. Reference No. RN102336955
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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$50,000	22-Oct-2019	26-Aug-2022	2.85	\$474	\$9,489	\$9,963
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)	\$15,000	22-Oct-2019	16-Oct-2020	0.99	\$740	n/a	\$740

Notes for DELAYED costs

Estimated Engineering/Construction Cost to conduct an engineering evaluation of the Facility to determine the cause of and necessary corrective actions designed to prevent flow exceedances and the unauthorized discharge of untreated wastewater from the Facility. Date required is the date of the first discharge. Final date is the estimated date of compliance.

Estimated Other Cost to cease the discharges, repair the berms on the evaporation ponds, and install atomizers to increase evaporation and reduce water levels in the evaporation ponds. Date required is the date of the first discharge. Final date is the date corrective actions were complete.

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
ONE-TIME avoided costs				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$65,000

TOTAL \$10,703

Screening Date 23-Jan-2020

Docket No. 2020-0184-IWD-E

PCW

Respondent Horizon Regional Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 58871

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102336955

Media Water Quality

Enf. Coordinator Stephanie Frederick

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TCEQ Permit No. WQ0004191000, Section IV., Conditions of the Permit, Volume

Violation Description

Failed to comply with the conditions of the permit. Specifically, the permitted annual average flow limit of 0.5214 million gallons per day ("MGD") to the evaporation ponds was exceeded in the calendar years of 2017 and 2018 with annual average flows of 0.934684 MGD and 0.980726 MGD, respectively.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				5.0%
	Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 729 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

Two annual events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Horizon Regional Municipal Utility District
Case ID No. 58871
Reg. Ent. Reference No. RN102336955
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 23-Jan-2020

Docket No. 2020-0184-IWD-E

PCW

Respondent Horizon Regional Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 58871

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102336955

Media Water Quality

Enf. Coordinator Stephanie Frederick

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.7(c), and TCEQ Permit No. WQ0004191000, Section VI., Standard Permit Conditions, Monitoring Requirements No. 3.b

Violation Description Failed to maintain monitoring and reporting records at the Facility and make them readily available for review by a TCEQ representative for a period of three years. Specifically, annual average flow records were not timely provided for review.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1.0%

Matrix Notes

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

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 38 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$25

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	

Notes

The Respondent achieved compliance on January 10, 2020.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$225

This violation Final Assessed Penalty (adjusted for limits) \$225

Economic Benefit Worksheet

Respondent Horizon Regional Municipal Utility District
Case ID No. 58871
Reg. Ent. Reference No. RN102336955
Media Violation No. Water Quality
 3

Percent Interest	Years of Depreciation
5.0	15

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

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	\$25	3-Dec-2019	10-Jan-2020	0.10	\$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 begin maintaining flow monitoring records onsite. Date required is the investigation end date. Final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$25	TOTAL	\$0
-----------------------------------	------	--------------	-----



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	21-Jan-2020	Screening	4-Nov-2020	EPA Due	
	PCW	17-Mar-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Horizon Regional Municipal Utility District
Reg. Ent. Ref. No.	RN102336955
Facility/Site Region	6-El Paso
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	58871	No. of Violations	1
Docket No.	2020-0184-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Stephanie Frederick
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
---------------------------	-----------------	--------------------------------	-----

Notes: The Respondent has submitted one notice of an intended audit; however, because a reduction would be below zero, the adjustment defaults to zero.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$2,582
Estimated Cost of Compliance	\$25,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$3,750
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
-----------------------------------	-------------------------------	---------

DEFERRAL	20.0%	Reduction	Adjustment	-\$750
-----------------	-------	-----------	-------------------	--------

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,000
------------------------	---------

Screening Date 4-Nov-2020

Docket No. 2020-0184-IWD-E

PCW

Respondent Horizon Regional Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 58871

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102336955

Media Water Quality

Enf. Coordinator Stephanie Frederick

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>)	0	0%
	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>)	1	-1%
	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) 0%

>> 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

The Respondent has submitted one notice of an intended audit; however, because a reduction would be below zero, the adjustment defaults to zero.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 4-Nov-2020 **Docket No.** 2020-0184-IWD-E **PCW**
Respondent Horizon Regional Municipal Utility District *Policy Revision 4 (April 2014)*
Case ID No. 58871 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN102336955
Media Water Quality
Enf. Coordinator Stephanie Frederick

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 305.65
Violation Description Failed to maintain authorization to operate a reverse osmosis water treatment plant and disposal site. Specifically, TCEQ Permit No. WQ0004191000 expired on September 1, 2020, and the Respondent continued to operate without authorization.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> **Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 64 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three monthly events are recommended, calculated from the permit expiration date (September 1, 2020) to the screening date (November 4, 2020).

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$2,582 **Violation Final Penalty Total** \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Horizon Regional Municipal Utility District
Case ID No. 58871
Reg. Ent. Reference No. RN102336955
Media Violation No. Water Quality
 1

Percent Interest	Years of Depreciation
5.0	15

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

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	\$25,000	1-Sep-2020	25-Sep-2022	2.07	\$2,582	n/a	\$2,582
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an application and obtain authorization to operate a reverse osmosis water treatment plant and disposal site. Date Required is the date the permit expired. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$25,000

TOTAL \$2,582

Horizon Regional Municipal Utility District
TCEQ Permit No. WQ0004191000
Docket No. 2020-0184-IWD-E

Unauthorized Discharge Table				
Date	Amount Discharged (gallons)	Location	Description	Corrective Action
October 22, 2019	5,000	15000 Horizon Boulevard	Concentrator discharge from the reverse osmosis system splashed over berms of the evaporation ponds in high winds.	Berms were repaired to stop splashing over of the effluent. Discharge ceased by October 25, 2019.
November 19, 2019	8,000	15000 Horizon Boulevard	Concentrator discharge from the reverse osmosis system overflowed the evaporation ponds.	Berms were repaired and atomizers were installed to increase evaporation and reduce water levels in the evaporation ponds. Discharge ceased by November 19, 2019.

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 CN601229560, RN102336955, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN601229560, Horizon Regional Municipal Utility District **Classification:** SATISFACTORY **Rating:** 3.83

Regulated Entity: RN102336955, HORIZON REGIONAL MUD REVERSE OSMOSIS WTP **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 14451 Horizon Boulevard with an associated disposal site located at 15000 Horizon Boulevard, approximately five miles east of the intersection of Horizon Boulevard (Highway 1281) and Interstate Highway 10, El Paso County, Texas

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

WASTEWATER PERMIT WQ0004191000

WASTEWATER PERMIT 2E0000265

WASTEWATER PERMIT WQ0005300000

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: March 12, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 12, 2016 to March 12, 2021

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

Name: Stephanie Frederick

Phone: (512) 239-1001

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.):

N/A

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.

N/A

F. Environmental audits:

Notice of Intent Date: 08/09/2019 (1591774)

No DOV Associated

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
HORIZON REGIONAL
MUNICIPAL UTILITY DISTRICT
RN102336955**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2020-0184-IWD-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 Horizon Regional Municipal Utility District (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 together stipulate that:

1. The Respondent owns and operates a reverse osmosis water treatment plant and disposal site located at 14451 Horizon Boulevard with an associated disposal site located at 15000 Horizon Boulevard, approximately five miles east of the intersection of Horizon Boulevard (Highway 1281) and Interstate Highway 10, El Paso 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. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$8,975 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$7,180 of the penalty and \$1,795 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

5. 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). 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.
6. 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 Order.
7. 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.
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. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By January 10, 2020, provided flow monitoring records to the TCEQ El Paso Regional Office and began maintaining flow monitoring records onsite.
 - b. By April 1, 2021, submitted an application to obtain coverage under TCEQ General Permit No. WQG100000.
 - c. By October 16, 2020, ceased the discharges, repaired the berms on the evaporation ponds, and installed atomizers to increase evaporation and reduce water levels in the evaporation ponds.

II. ALLEGATIONS

1. During an investigation conducted on November 20, 2019 through December 3, 2019, an investigator documented that the Respondent:
 - a. Failed to maintain a minimum of 24 inches of freeboard for any open pond resulting in the unauthorized discharge of wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0004191000, Section VI., Standard Permit Conditions, Permit Conditions No. 2.g and Section V., Special Provisions, No. B.8. Specifically, there was no freeboard provided at the southwestern-most part of the Facility's evaporation ponds which resulted in two unauthorized discharges from the ponds, as shown in the table below:

Unauthorized Discharge Table				
Date	Amount Discharged (gallons)	Location	Description	Corrective Action
October 22, 2019	5,000	15000 Horizon Boulevard	Concentrator discharge from the reverse osmosis system splashed over berms of the evaporation ponds in high winds.	Berms were repaired to stop splashing over of the effluent. Discharge ceased by October 25, 2019.
November 19, 2019	8,000	15000 Horizon Boulevard	Concentrator discharge from the reverse osmosis system overflowed the evaporation ponds.	Berms were repaired and atomizers were installed to increase evaporation and reduce water levels in the evaporation ponds. Discharge ceased by November 19, 2019.

- b. Failed to comply with the conditions of the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TCEQ Permit No. WQ0004191000, Section IV., Conditions of the Permit, Volume. Specifically, the permitted annual average flow limit of 0.5214 million gallons per day ("MGD") to the evaporation ponds was exceeded in the calendar years of 2017 and 2018 with annual average flows of 0.934684 MGD and 0.980726 MGD, respectively.
 - c. Failed to maintain monitoring and reporting records at the Facility and make them readily available for review by a TCEQ representative for a period of three years, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.7(c) and TCEQ Permit No. WQ0004191000, Section VI., Standard Permit Conditions, Monitoring Requirements No. 3.b. Specifically, annual average flow records were not timely provided for review.
2. During an investigation conducted on October 21, 2020, an investigator documented that the Respondent failed to maintain authorization to operate a reverse osmosis water treatment plant and disposal site, in violation of 30 TEX. ADMIN. CODE § 305.65. Specifically, TCEQ Permit No. WQ0004191000 expired on September 1, 2020, and the Respondent continued to operate without authorization.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Horizon Regional Municipal Utility District, Docket No. 2020-0184-IWD-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. Immediately upon the effective date of this Order and until such time that authorization to operate is obtained or until 300 days after the effective date of this Order, whichever is earlier, comply with the permit limits and conditions of expired TCEQ Permit No. WQ0004191000.

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the pending application for coverage under TCEQ General Permit No. WQG100000 within 30 days after the date of such requests or by any other deadline specified in writing.
 - b. Within 60 days after the effective date of this Order, conduct an engineering evaluation of the Facility to determine the cause of and necessary corrective actions designed to prevent flow exceedances and the unauthorized discharge of untreated wastewater from the Facility. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Order.
 - c. Within 285 days after the effective date of this Order, submit written certification demonstrating the completion of the corrective actions designed to prevent flow exceedances and the unauthorized discharge of untreated wastewater from the Facility, as prescribed by the engineering evaluation required by Ordering Provision No. 2.b, in accordance with Ordering Provision No. 2.d.

- d. Within 300 days after the effective date of this Order, submit written certification that authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1212

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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. 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.
8. 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/2/2022

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

03/24/2022

Date

G.L. Jarvis

Name (Printed or typed)
Authorized Representative of
Horizon Regional Municipal Utility District

President

Title

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

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