

Executive Summary – Enforcement Matter – Case No. 60200
Montgomery County Municipal Utility District No. 56
RN107636359
Docket No. 2020-1612-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Montgomery County MUD 56 MS4, located at the area outside the Porter city limits within the Houston urbanized area, Montgomery County

Type of Operation:

Municipal separate storm sewer system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 17, 2021

Comments Received: No

Penalty Information

Total Penalty Assessed: \$16,250

Amount Deferred for Expedited Settlement: \$3,250

Total Paid to General Revenue: \$400

Total Due to General Revenue: \$12,600

Payment Plan: 35 payments of \$360 each

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

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: September 15, 2020 through October 30, 2020

Date(s) of NOE(s): December 8, 2020

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Montgomery County Municipal Utility District No. 56
RN107636359
Docket No. 2020-1612-WQ-E

Violation Information

1. Failed to submit concise annual reports to the Executive Director within 90 days of the end of each reporting year. Specifically, the Respondent did not submit annual reports for the years of 2014 through 2018 [30 TEX. ADMIN. CODE § 305.125(1) and expired Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR040548, Part IV, Section B(2)].
2. Failed to implement the Stormwater Management Plan ("SWMP") and the Best Management Practices ("BMPs") consistent with the provisions of the General Permit and the SWMP. Specifically, the Respondent did not fully implement the BMPs identified in the SWMP for Minimum Control Measures Nos. 1 through 5 for expired TPDES General Permit No. TXR040548 [30 TEX. ADMIN. CODE § 305.125(1) and expired TPDES General Permit No. TXR040548, Part III, Section A(1)(c) and Section B].
3. Failed to maintain authorization to discharge stormwater under TPDES General Permit for municipal separate storm sewer systems. Specifically, TPDES General Permit No. TXR040548 expired on December 13, 2018, and the Respondent failed to submit a Notice of Intent and a revised SWMP by the permit application deadline of July 23, 2019 [30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121, and 40 CODE OF FEDERAL REGULATIONS § 122.26(a)(9)(i)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, until such time that authorization to discharge stormwater is obtained, or until 180 days, whichever is earlier, comply with the permit requirements in expired TPDES General Permit No. TXR040548.
- b. Within 30 days, prepare and submit a Notice of Intent and a revised SWMP.
- c. Within 180 days:
 - i. Submit written certification that authorization to discharge stormwater has been obtained; and

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RN107636359
Docket No. 2020-1612-WQ-E

- ii. Implement the delinquent BMPs identified in the revised SWMP for Minimum Control Measures Nos. 1 through 5 for TPDES General Permit No. TXRo40000.
- d. Within 195 days, submit written certification of compliance with c.ii.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Monica Larina, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-0184; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Clarence Bull, President, Montgomery County Municipal Utility District No. 56, 10000 Memorial Drive, Suite 260, Houston, Texas 77024

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	14-Dec-2020	Screening	16-Dec-2020	EPA Due	
	PCW	1-Jul-2021				

RESPONDENT/FACILITY INFORMATION

Respondent	Montgomery County Municipal Utility District No. 56
Reg. Ent. Ref. No.	RN107636359
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	60200	No. of Violations	3
Docket No.	2020-1612-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Caleb Olson
		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	\$16,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0%	Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for Compliance History.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$4,357
Estimated Cost of Compliance	\$23,278

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$16,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,250
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,250
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$13,000
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Screening Date	16-Dec-2020	Docket No.	2020-1612-WQ-E	PCW
Respondent	Montgomery County Municipal Utility District No. 56			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60200			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN107636359			
Media	Water Quality			
Enf. Coordinator	Caleb Olson			

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>)	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) 0%

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for Compliance History.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date	16-Dec-2020	Docket No.	2020-1612-WQ-E	PCW	
Respondent	Montgomery County Municipal Utility District No. 56				<i>Policy Revision 4 (April 2014)</i>
Case ID No.	60200				<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN107636359				
Media	Water Quality				
Enf. Coordinator	Caleb Olson				
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and expired Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR040548, Part IV, Section B(2)				
Violation Description	Failed to submit concise annual reports to the Executive Director within 90 days of the end of each reporting year. Specifically, the Respondent did not submit annual reports for the years of 2014 through 2018.				
		Base Penalty	\$25,000		

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential				
				Percent	0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		X			
					Percent 5.0%
Matrix Notes	100% of the rule requirements were not met.				
				Adjustment	\$23,750

\$1,250

Violation Events

Number of Violation Events	5	1,490	Number of violation days
	daily		
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	X	
			Violation Base Penalty \$6,250
Five single events are recommended, one for each delinquent annual report.			

Good Faith Efforts to Comply

	0.0%				
	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	\$6,250	

Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount	\$601
Violation Final Penalty Total	\$6,250
This violation Final Assessed Penalty (adjusted for limits)	\$6,250

Economic Benefit Worksheet

Respondent Montgomery County Municipal Utility District No. 56
Case ID No. 60200
Reg. Ent. Reference No. RN107636359
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				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

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	\$553	31-Mar-2019	16-Dec-2020	1.72	\$48	\$553	\$601
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$100 per report x five reports + \$53 in accrued interest) to prepare and submit the delinquent annual reports for the years of 2014 through 2018 to the Executive Director. Date required is the date the annual report for the year of 2018 was due. Final date is the screening date.

Approx. Cost of Compliance

\$553

TOTAL

\$601

Screening Date	16-Dec-2020	Docket No.	2020-1612-WQ-E	PCW
Respondent	Montgomery County Municipal Utility District No. 56	Policy Revision 4 (April 2014)		
Case ID No.	60200	PCW Revision March 26, 2014		
Reg. Ent. Reference No.	RN107636359			
Media	Water Quality			
Enf. Coordinator	Caleb Olson			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1) and expired TPDES General Permit No. TXR040548, Part III, Section A(1)(c) and Section B			
Violation Description	Failed to implement the Stormwater Management Plan ("SWMP") and the Best Management Practices ("BMPs") consistent with the provisions of the General Permit and the SWMP. Specifically, the Respondent did not fully implement the BMPs identified in the SWMP for Minimum Control Measures ("MCM") Nos. 1 through 5 for expired TPDES General Permit No. TXR040548.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	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.				0.0%
Adjustment					\$23,750

\$1,250

Violation Events

Number of Violation Events	2	92	Number of violation days
	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		
Two quarterly events are recommended from the investigation start date (September 15, 2020) to the screening date (December 16, 2020).			
Violation Base Penalty			\$2,500

Good Faith Efforts to Comply

0.0%	Reduction	
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

Estimated EB Amount	\$3,312	
Statutory Limit Test		
Violation Final Penalty Total	\$2,500	
This violation Final Assessed Penalty (adjusted for limits)		\$2,500

Economic Benefit Worksheet

Respondent Montgomery County Municipal Utility District No. 56
Case ID No. 60200
Reg. Ent. Reference No. RN107636359
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
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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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20,000	18-Jul-2019	8-Nov-2022	3.31	\$3,312	n/a	\$3,312

Notes for DELAYED costs

Estimated delayed cost to implement the delinquent BMPs identified in the revised SWMP for MCM Nos. 1 through 5 for TPDES General Permit No. TXR040000. Date required is the date of the investigation initially documenting the violation. Final date is the anticipated 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

\$20,000

TOTAL

\$3,312

Screening Date	16-Dec-2020	Docket No.	2020-1612-WQ-E	PCW
Respondent	Montgomery County Municipal Utility District No. 56	<i>Policy Revision 4 (April 2014)</i>		
Case ID No.	60200	<i>PCW Revision March 26, 2014</i>		
Reg. Ent. Reference No.	RN107636359			
Media	Water Quality			
Enf. Coordinator	Caleb Olson			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 281.25(a)(4), Tex. Water Code § 26.121, and 40 Code of Federal Regulations § 122.26(a)(9)(i)(A)			
Violation Description	Failed to maintain authorization to discharge stormwater under TPDES General Permit for municipal separate storm sewer systems. Specifically, TPDES General Permit No. TXR040548 expired on December 13, 2018, and the Respondent failed to submit a Notice of Intent ("NOI") and a revised SWMP by the permit application deadline of July 23, 2019.			
Base Penalty				\$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
		Major	Moderate	Minor		
	Actual					
	Potential				Percent	0.0%

>> Programmatic Matrix

	Falsification					
		Major	Moderate	Minor		
		X				
					Percent	5.0%

Matrix Notes	100% of the rule requirements were not met.
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Adjustment	\$23,750
\$1,250	

Violation Events

Number of Violation Events	6		512	Number of violation days
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	daily			
	weekly			
	monthly			
	quarterly	X		
	semiannual			
	annual			
	single event			
Violation Base Penalty				\$7,500

Six quarterly events are recommended from the permit application deadline (July 23, 2019) to the screening date (December 16, 2020).

Good Faith Efforts to Comply

	0.0%			
	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				\$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount	\$444	Statutory Limit Test	
		Violation Final Penalty Total	\$7,500
		This violation Final Assessed Penalty (adjusted for limits)	\$7,500

Economic Benefit Worksheet

Respondent Montgomery County Municipal Utility District No. 56
Case ID No. 60200
Reg. Ent. Reference No. RN107636359
Media Water Quality
Violation No. 3

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				0.00	\$0	n/a	\$0
Permit Costs	\$2,725	23-Jul-2019	24-Oct-2022	3.26	\$444	n/a	\$444
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to prepare and submit an NOI and revised SWMP to obtain authorization to discharge stormwater under TPDES General Permit No. TXR040000. Date required is the permit application deadline. Final date is the anticipated 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

\$2,725

TOTAL

\$444

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 CN600736722, RN107636359, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator:	CN600736722, Montgomery County Municipal Utility District No. 56	Classification: SATISFACTORY	Rating: 0.80
Regulated Entity:	RN107636359, MONTGOMERY COUNTY MUD NO. 56 MS4	Classification: SATISFACTORY	Rating: 1.60
Complexity Points:	5	Repeat Violator:	NO
CH Group:	14 - Other		
Location:	Area outside the Porter city limits within the Houston urbanized area in Montgomery County, Texas		
TCEQ Region:	REGION 12 - HOUSTON		
ID Number(s):			

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

Date Compliance History Report Prepared: July 01, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 01, 2016 to July 01, 2021

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

Name: Caleb Olson

Phone: (817) 588-5856

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:

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
MONTGOMERY COUNTY
MUNICIPAL UTILITY DISTRICT
NO. 56
RN107636359**

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

AGREED ORDER DOCKET NO. 2020-1612-WQ-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 Montgomery County Municipal Utility District No. 56 (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 municipal separate storm sewer system located at the area outside the Porter city limits within the Houston urbanized area in Montgomery 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 \$16,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$400 of the penalty and \$3,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$12,600 of the undeferred penalty shall be paid in 35 monthly payments of \$360 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in

full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty

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.

II. ALLEGATIONS

During a record review conducted from September 15, 2020 through October 30, 2020, an investigator documented that the Respondent:

1. Failed to submit concise annual reports to the Executive Director within 90 days of the end of each reporting year, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and expired Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR040548, Part IV, Section B(2). Specifically, the Respondent did not submit annual reports for the years of 2014 through 2018.
2. Failed to implement the Stormwater Management Plan ("SWMP") and the Best Management Practices ("BMPs") consistent with the provisions of the General Permit and the SWMP, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and expired TPDES General Permit No. TXR040548, Part III, Section A(1)(c) and Section B. Specifically, the Respondent did not fully implement the BMPs identified in the SWMP for Minimum Control Measures ("MCM") Nos. 1 through 5 for expired TPDES General Permit No. TXR040548.
3. Failed to maintain authorization to discharge stormwater under TPDES General Permit for municipal separate storm sewer systems, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4), TEX. WATER CODE § 26.121, and 40 CODE OF FEDERAL REGULATIONS

§ 122.26(a)(9)(i)(A). Specifically, TPDES General Permit No. TXRo40548 expired on December 13, 2018, and the Respondent failed to submit a Notice of Intent ("NOI") and a revised SWMP by the permit application deadline of July 23, 2019.

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: Montgomery County Municipal Utility District No. 56, Docket No. 2020-1612-WQ-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, until such time that authorization to discharge stormwater is obtained, or until 180 days after the effective date of this Order, whichever is earlier, comply with the permit requirements in expired TPDES General Permit No. TXRo40548.
 - b. Within 30 days after the effective date of this Order, prepare and submit an NOI and a revised SWMP to:

Applications Review and Processing Team
Water Quality Division, MC 148
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such requests or by any other deadline specified in writing.

- c. Within 180 days after the effective date of this Order:

- i. Submit written certification that authorization to discharge stormwater has been obtained, in accordance with Ordering Provision No. 2.e; and
 - ii. Implement the delinquent BMPs identified in the revised SWMP for MCM Nos. 1 through 5 for TPDES General Permit No. TXRo40000.
- d. Within 195 days after the effective date of this Order, submit written certification of compliance with Ordering Provision No. 2.c.ii, in accordance with Ordering Provision No. 2.e.
- e. The written certifications of compliance required by Ordering Provision Nos. 2.c.i. and 2.d 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

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



6/27/2022

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

5/19/22

Date

CLARENCE W. BULL

Name (Printed or typed)

PRESIDENT/DIRECTOR

Title

Authorized Representative of

Montgomery County Municipal Utility District No. 56

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