

Executive Summary – Enforcement Matter – Case No. 60899
Southern Montgomery County Municipal Utility District
RN103219028
Docket No. 2021-0767-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:

Yes

Location(s) Where Violation(s) Occurred:

Southern Montgomery County MUD, 852 Rayford Road, Spring, Montgomery 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: October 20, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,250

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$21,250

Name of SEP: Bayou Land Conservancy (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

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 18, 2020

Date(s) of NOE(s): January 26, 2021

**Executive Summary – Enforcement Matter – Case No. 60899
Southern Montgomery County Municipal Utility District
RN103219028
Docket No. 2021-0767-MWD-E**

Violation Information

Failed to comply with permitted effluent limitations [30 TEX. ADMIN. CODE § 305.125(1) and (4), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011001001, Permit Conditions No. 2].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By November 17, 2020, the Respondent ceased the unauthorized discharge, developed and implemented procedures, and conducted employee training to prevent additional unauthorized discharges.

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: Madison Stringer, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1126; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

SEP Third-Party Administrator: Bayou Land Conservancy, 10330 Lake Road, Building J, Houston, Texas 77070

Respondent: Bruce Harrison, President, Southern Montgomery County Municipal Utility District, 25212 IH-45, Spring, Texas 77386-1432

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	1-Feb-2021	Screening	15-Jun-2021	EPA Due	
	PCW	16-Sep-2021				

RESPONDENT/FACILITY INFORMATION	
Respondent	Southern Montgomery County Municipal Utility District
Reg. Ent. Ref. No.	RN103219028
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	60899	No. of Violations	1
Docket No.	2021-0767-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Madison Stringer
		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	\$25,000
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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	10.0%	Adjustment	Subtotals 2, 3, & 7	\$2,500
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Notes: Enhancement for two months of self-reported effluent violations.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$6,250
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$400
 Estimated Cost of Compliance: \$650
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$21,250
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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:

Final Penalty Amount	\$21,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,250
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$21,250
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Screening Date 15-Jun-2021

Docket No. 2021-0767-MWD-E

PCW

Respondent Southern Montgomery County Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 60899

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103219028

Media Water Quality

Enf. Coordinator Madison Stringer

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>)	2	10%
	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) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two months of self-reported effluent violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 10%

Screening Date 15-Jun-2021

Docket No. 2021-0767-MWD-E

PCW

Respondent Southern Montgomery County Municipal Utility District

Policy Revision 4 (April 2014)

Case ID No. 60899

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103219028

Media Water Quality

Enf. Coordinator Madison Stringer

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. WQ0011001001, Permit Conditions No. 2

Violation Description Failed to comply with permitted effluent limitations. Specifically, on November 12, 2020, the chlorine feed rate was inadvertently left on high throughout the night, which led to approximately 300,000 gallons of effluent containing an estimated chlorine residual of over 4 milligrams per liter to discharge from the Facility and into an unnamed ditch located at 856 Rayford Road in Spring, Texas, resulting in the death of approximately 300-500 fish.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			100.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 \$0

\$25,000

Violation Events

Number of Violation Events 1 Number of violation days 5

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$25,000

One monthly event is recommended from the November 12, 2020 unauthorized discharge date to the November 17, 2020 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$6,250

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

Extraordinary	
Ordinary	x
N/A	

Notes The Respondent achieved compliance by November 17, 2020, prior to the Notice of Enforcement dated January 26, 2021.

Violation Subtotal \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$400

Violation Final Penalty Total \$21,250

This violation Final Assessed Penalty (adjusted for limits) \$21,250

Economic Benefit Worksheet

Respondent Southern Montgomery County Municipal Utility District
Case ID No. 60899
Reg. Ent. Reference No. RN103219028
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	\$250	12-Nov-2020	17-Nov-2020	0.01	\$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 training cost to develop and implement procedures and conduct employee training to prevent the future occurrence of unauthorized discharges. The Date Required is the date of the unauthorized 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)	\$400	12-Nov-2020	17-Nov-2020	0.01	\$0	\$400	\$400

Notes for AVOIDED costs
 Estimated Remediation/Disposal cost to remove and dispose of an estimated 300-500 dead fish and clean the area of effluent. The Date Required is the unauthorized discharge date, and the Final Date is the compliance date.

Approx. Cost of Compliance \$650

TOTAL \$400

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 CN600658363, RN103219028, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN600658363, Southern Montgomery County Municipal Utility District
Classification: SATISFACTORY **Rating:** 0.42

Regulated Entity: RN103219028, SOUTHERN MONTGOMERY COUNTY MUD
Classification: SATISFACTORY **Rating:** 0.80

Complexity Points: 9
Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: 852 Rayford Road in Montgomery County, Texas

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

WASTEWATER LICENSING LICENSE WQ0011001001
WASTEWATER EPA ID TX0024759

WASTEWATER PERMIT WQ0011001001
WASTEWATER AUTHORIZATION R11001001

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: January 03, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 03, 2017 to January 03, 2022

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

Name: Alyssa Loveday

Phone: (512) 239-5504

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	January 06, 2017	(1397418)	Item 14	March 13, 2018	(1490697)
Item 2	February 14, 2017	(1404308)	Item 15	April 10, 2018	(1493947)
Item 3	March 15, 2017	(1411400)	Item 16	May 10, 2018	(1500884)
Item 4	April 13, 2017	(1440115)	Item 17	June 11, 2018	(1507981)
Item 5	May 10, 2017	(1425494)	Item 18	July 13, 2018	(1514315)
Item 6	June 13, 2017	(1431515)	Item 19	September 10, 2018	(1520364)
Item 7	August 23, 2017	(1443796)	Item 20	September 12, 2018	(1527535)
Item 8	September 12, 2017	(1450404)	Item 21	October 16, 2018	(1533895)
Item 9	October 04, 2017	(1474804)	Item 22	November 13, 2018	(1541720)
Item 10	October 10, 2017	(1456251)	Item 23	December 17, 2018	(1545498)
Item 11	November 14, 2017	(1461716)	Item 24	January 08, 2019	(1560494)
Item 12	January 09, 2018	(1468104)	Item 25	February 12, 2019	(1560492)
Item 13	February 19, 2018	(1487026)			

Item 26	March 14, 2019	(1560493)	Item 40	September 14, 2020	(1687184)
Item 27	April 09, 2019	(1572098)	Item 41	September 17, 2020	(1680618)
Item 28	May 08, 2019	(1583803)	Item 42	October 19, 2020	(1693527)
Item 29	June 10, 2019	(1583804)	Item 43	November 09, 2020	(1713276)
Item 30	July 08, 2019	(1593429)	Item 44	December 02, 2020	(1713278)
Item 31	August 15, 2019	(1599764)	Item 45	February 09, 2021	(1726335)
Item 32	August 29, 2019	(1613509)	Item 46	April 13, 2021	(1726337)
Item 33	September 12, 2019	(1606663)	Item 47	May 11, 2021	(1740473)
Item 34	November 18, 2019	(1619324)	Item 48	June 09, 2021	(1740474)
Item 35	December 03, 2019	(1634318)	Item 49	June 15, 2021	(1722940)
Item 36	December 13, 2019	(1626677)	Item 50	August 17, 2021	(1757436)
Item 37	February 24, 2020	(1640934)	Item 51	September 15, 2021	(1777104)
Item 38	March 09, 2020	(1647453)	Item 52	September 16, 2021	(1766535)
Item 39	June 10, 2020	(1666888)			

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: 02/28/2021 (1726336)
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

- 2 Date: 06/30/2021 (1751976)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SOUTHERN MONTGOMERY
COUNTY MUNICIPAL UTILITY
DISTRICT
RN103219028

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2021-0767-MWD-E**

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Southern Montgomery County 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 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 852 Rayford Road 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. During a record review conducted for the Facility on November 18, 2020, an investigator documented that on November 12, 2020, the chlorine feed rate was inadvertently left on high, which led to approximately 300,000 gallons of effluent containing an estimated chlorine residual of over 4 milligrams per liter to discharge from the Facility and into an unnamed ditch located at 856 Rayford Road in Spring, Texas, resulting in the death of approximately 300-500 fish.

3. The Executive Director recognizes that by November 17, 2020, the Respondent ceased the unauthorized discharge, developed and implemented procedures, and conducted employee training to prevent additional unauthorized discharges.

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 comply with permitted effluent limitations, 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. WQ0011001001, Permit Conditions No. 2.
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 \$21,250 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, \$21,250 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 ("Agreement 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:

Southern Montgomery County Municipal Utility District, Docket No. 2021-0767-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 \$21,250 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 of 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



2/14/2024

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

Name (Printed or typed)

Title

Authorized Representative of

Southern Montgomery County Municipal Utility District

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: 2021-0767-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Southern Montgomery County Municipal Utility District
Payable Penalty Amount:	\$21,250
SEP Offset Amount:	\$21,250
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed – Western Watershed Protection Project</i>
Total Project Budget:	\$3,420,000
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative payable 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 **Bayou Land Conservancy** for the *Lake Houston Watershed - Western Watershed Protection Project* (the “Project”). Third-Party Administrator has identified approximately 500 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for property acquisition or acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, Texas Natural Resources Code. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. The Project is to conduct certain due diligence activities and to purchase land or conservation easements in perpetuity from private and public landowners. Third-Party Administrator shall also conduct restoration work as necessary on properties placed under a conservation easement or owned by the Third-Party Administrator. Third-Party Administrator shall conduct habitat restoration and enhancement, including removing invasive species and planting native vegetation. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement or owned by Third-Party Administrator. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

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 the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston’s primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased E. coli bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to critical water sources.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to 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 Third-Party Administrator. The Respondent shall make the check payable to **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to:

Bayou Land Conservancy
Attention: Becky Martinez, Conservation Director
10330 Lake Road, Building J
Houston, Texas 77070

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 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.