

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61350  
Realty Income Properties 22, LLC  
RN110608650  
Docket No. 2021-1244-PWS-E

Page 1 of 2

**Order Type:**  
Default Order

**Media:**  
PWS

**Small Business:**  
N/A

**Location Where Violations Occurred:**  
7001 Andrews Highway, Odessa, Ector County

**Type of Operation:**  
public water system

**Other Significant Matters:**  
Additional Pending Enforcement Actions: None  
Past-Due Penalties: None  
Past-Due Fees: None  
Other: None  
Interested Third Parties: None

**Texas Register Publication Date:** August 15, 2025

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$1,500

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$1,500

**Compliance History Classifications:**  
Person/CN - N/A  
Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** January 28, 2021

**Investigation Information**

**Complaint Date:** N/A

**Date of Investigation:** August 23, 2021

**Date of NOV:** N/A

**Date of NOE:** September 15, 2021

**Violation Information**

1. Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].
2. Failed to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection [30 TEX. ADMIN. CODE § 290.42(b)(1) and (e)(3)].

**Corrective Actions/Technical Requirements**

**Corrective Action Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Provide a flow measuring device for the Facility's well to measure production yield and provide for the accumulation of water production data; and
  - b. Provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.

**Litigation Information**

**Date Petition Filed:** December 13, 2023  
**Date of Service:** December 18, 2023  
**Date Answer Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Benjamin Pence, Litigation Division, (512) 239-3400  
Sheldon Wayne, Public Interest Counsel, (512) 239-6363

**TCEQ Litigation Agenda Coordinator:** Katherine McKenzie, Litigation Division, (512) 239-2575

**TCEQ Enforcement Coordinator:** Miles Wehner, Enforcement Division, (512) 239-2813

**TCEQ Regional Contact:** Crystal Garcia, Midland Regional Office, (432) 570-1359

**Respondent Contact:** Sumit Roy, President, Realty Income Properties 22, LLC, 11995 El Camino Real,  
San Diego, California 92130-2539

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	7-Sep-2021	<b>Screening</b>	15-Sep-2021	<b>EPA Due</b>	
	<b>PCW</b>	4-Oct-2021				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Realty Income Properties 22, LLC		
<b>Reg. Ent. Ref. No.</b>	RN110608650		
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	61350	<b>No. of Violations</b>	2
<b>Docket No.</b>	2021-1244-PWS-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Miles Wehner
		<b>EC's Team</b>	Enforcement Team 8
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$5,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$1,500
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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.

<b>Compliance History</b>	0.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$0	
Notes	No adjustment for Compliance History.				
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
Notes	The Respondent does not meet the culpability criteria.				
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	\$0	
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0	
Total EB Amounts	\$90	*Capped at the Total EB \$ Amount			
Estimated Cost of Compliance	\$1,300				

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$1,500
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## OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage.

	0.0%	Adjustment	\$0
Notes			
		<b>Final Penalty Amount</b>	\$1,500

## STATUTORY LIMIT ADJUSTMENT

<b>Final Assessed Penalty</b>	\$1,500
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## DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage.

	0.0%	Reduction	<b>Adjustment</b>	\$0
Notes	Deferral not offered for non-expedited settlement.			

## PAYABLE PENALTY

\$1,500
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<b>Screening Date</b>	15-Sep-2021	<b>Docket No.</b>	2021-1244-PWS-E	<b>PCW</b>
<b>Respondent</b>	Realty Income Properties 22, LLC			Policy Revision 5 (January 28, 2021)
<b>Case ID No.</b>	61350			PCW Revision February 11, 2021
<b>Reg. Ent. Reference No.</b>	RN110608650			
<b>Media</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Miles Wehner			

### 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)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

**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%

<b>Screening Date</b> 15-Sep-2021 <b>Respondent</b> Realty Income Properties 22, LLC <b>Case ID No.</b> 61350 <b>Reg. Ent. Reference No.</b> RN110608650 <b>Media</b> Public Water Supply <b>Enf. Coordinator</b> Miles Wehner	<b>Docket No.</b> 2021-1244-PWS-E	<b>PCW</b> <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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<b>Violation Number</b>	1		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.41(c)(3)(N)		
<b>Violation Description</b>	Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data. Specifically, the Facility's well had a broken flow measuring device.		
<b>Base Penalty</b>		\$5,000	

  

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential	x			<b>Percent</b> 15.0%

  

**>> Programmatic Matrix**

<b>Matrix Notes</b>		<b>Falsification</b>			
		Major	Moderate	Minor	
					<b>Percent</b> 0.0%
		Failure to provide a flow measuring device for the well could result in inaccurate water production data which would affect treatment practices, thereby exposing persons served by the Facility to contaminants which would exceed levels protective of human health.			
<b>Adjustment</b>		\$4,250			

  

<b>Adjustment</b>		\$750
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**Violation Events**

Number of Violation Events	1	20	Number of violation days
	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 2px;">daily</div> <div style="margin-bottom: 2px;">weekly</div> <div style="margin-bottom: 2px;">monthly</div> <div style="margin-bottom: 2px;">quarterly</div> <div style="margin-bottom: 2px;">semiannual</div> <div style="margin-bottom: 2px;">annual</div> <div>single event</div> </div>	<div style="display: flex; flex-direction: column; align-items: flex-start;"> <div style="margin-bottom: 2px;"></div> <div style="margin-bottom: 2px;"></div> <div style="margin-bottom: 2px;">x</div> <div style="margin-bottom: 2px;"></div> <div style="margin-bottom: 2px;"></div> <div style="margin-bottom: 2px;"></div> <div></div> </div>	
<b>Violation Base Penalty</b>		\$750	
One monthly event is recommended, calculated from the August 23, 2021 record review date to the September 15, 2021 screening date.			

  

**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.	
<b>Violation Subtotal</b>		\$750

  

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount	\$21
<b>Violation Final Penalty Total</b>	\$750
<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$750

# Economic Benefit Worksheet

**Respondent** Realty Income Properties 22, LLC  
**Case ID No.** 61350  
**Reg. Ent. Reference No.** RN110608650  
**Media** Public Water Supply  
**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	\$300	23-Aug-2021	18-Aug-2022	0.99	\$1	\$20	\$21
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

The delayed cost includes the estimated amount to provide the well with a flow measuring device, calculated from the date of the record review to 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 \$300

**TOTAL** \$21

<b>Screening Date</b>	15-Sep-2021	<b>Docket No.</b>	2021-1244-PWS-E	<b>PCW</b>
<b>Respondent</b>	Realty Income Properties 22, LLC	Policy Revision 5 (January 28, 2021)		
<b>Case ID No.</b>	61350	PCW Revision February 11, 2021		
<b>Reg. Ent. Reference No.</b>	RN110608650			
<b>Media</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Miles Wehner			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 290.42(b)(1) and (e)(3)			
<b>Violation Description</b>	Failed to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection. Specifically, the chlorinator had been damaged then removed.			
		<b>Base Penalty</b>	\$5,000	

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

<b>OR</b>			<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor		
	Actual					
	Potential	x			<b>Percent</b>	15.0%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b>
					0.0%

Matrix Notes: Without disinfection facilities to ensure microbiological control and proper disinfection of the water, persons served by the Facility could be exposed to contaminants that would exceed levels that are protective of human health.

**Adjustment** \$4,250

\$750

**Violation Events**

Number of Violation Events	1	20	Number of violation days
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daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$750

One monthly event is recommended, calculated from the August 23, 2021 record review date to the September 15, 2021 screening date.

**Good Faith Efforts to Comply**

	<b>0.0%</b>	
	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.

**Reduction** \$0

**Violation Subtotal** \$750

**Economic Benefit (EB) for this violation**

<b>Estimated EB Amount</b>	<b>Statutory Limit Test</b>
\$69	<b>Violation Final Penalty Total</b>
	\$750

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

# Economic Benefit Worksheet

**Respondent** Realty Income Properties 22, LLC  
**Case ID No.** 61350  
**Reg. Ent. Reference No.** RN110608650  
**Media** Public Water Supply  
**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)	\$1,000	23-Aug-2021	18-Aug-2022	0.99	\$3	\$66	\$69
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

The delayed cost includes the estimated amount to provide disinfection facilities for microbiological control and distribution protection, calculated from the date of the record review to 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 \$1,000

**TOTAL** \$69





# Compliance History Report

Compliance History Report for CN604378414, Realty Income Properties 22, LLC, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

<b>Customer, Respondent, or Owner/Operator:</b>	CN604378414, Realty Income Properties 22, LLC	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Regulated Entity:</b>	RN110608650, DOLLAR GENERAL YUKON RD	<b>Classification:</b>	NOT APPLICABLE	<b>Rating:</b>	N/A
<b>Complexity Points:</b>	N/A	<b>Repeat Violator:</b>	N/A		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	7001 ANDREWS HIGHWAY, ODESSA, ECTOR COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 07 - MIDLAND				
<b>ID Number(s):</b>					
<b>PUBLIC WATER SYSTEM/SUPPLY</b>	REGISTRATION 0680217				

<b>Compliance History Period:</b>	September 01, 2016 to August 31, 2021	<b>Rating Year:</b>	2021	<b>Rating Date:</b>	09/01/2021
<b>Date Compliance History Report Prepared:</b>	March 01, 2022				
<b>Agency Decision Requiring Compliance History:</b>	Enforcement				
<b>Component Period Selected:</b>	March 01, 2017 to March 01, 2022				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	Miles Wehner	<b>Phone:</b>	(512) 239-2813		

## Site and Owner/Operator History:

- |  |    |
|--|----|
| 1) Has the site been in existence and/or operation for the full five-year compliance period?       | NO |
| 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  
REALTY INCOME PROPERTIES 22,  
LLC;  
RN110608650

§  
§  
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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER

DOCKET NO. 2021-1244-PWS-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Realty Income Properties 22, LLC ("Respondent").

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

### FINDINGS OF FACT

1. Respondent owns and operates a public water system ("PWS") located at 7001 Andrews Highway in Odessa, Ector County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately one service connection, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a PWS as defined in 30 TEX. ADMIN. CODE § 290.38.
2. During a record review conducted on August 23, 2021, an investigator documented that Respondent:
  - a. Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data. Specifically, the Facility's well had a broken flow measuring device; and
  - b. Failed to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection. Specifically, the chlorinator had been damaged then removed.
3. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Realty Income Properties 22, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on December 13, 2023.
4. By letter dated December 13, 2023, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on December 18, 2023, as evidenced by the signature on the card.
5. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection, in violation of 30 TEX. ADMIN. CODE § 290.42(b)(1) and (e)(3).
4. As evidenced by Findings of Fact Nos. 3 and 4, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
5. As evidenced by Finding of Fact No. 5, Respondent failed to file a timely answer as required by TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of \$1,500 is justified by the facts recited in this Order and considered considering the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b).
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$1,500 for violations of state statutes and rules of the TCEQ. The payment of this penalty and 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 which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Realty Income Properties 22, LLC; Docket No. 2021-1244-PWS-E" to:

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

3. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order:
    - i. Provide a flow measuring device for the Facility's well to measure production yield and provide for the accumulation of water production data, in accordance with 30 TEX. ADMIN. CODE § 290.41; and
    - ii. Provide disinfection facilities for the groundwater supply for the purpose of microbiological control and distribution protection, in accordance with 30 TEX. ADMIN. CODE § 290.42.
  - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by 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 fine and imprisonment for knowing violations.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
- and:

Section Manager, Public Drinking Water  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. 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.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until 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 Enforcement Division at the address listed above.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**S I G N A T U R E   P A G E**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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For the Commission

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Date

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



## UNSWORN DECLARATION OF BENJAMIN PENCE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Realty Income Properties 22, LLC' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 13, 2023.

The EDPRP was mailed to Respondent's last known address on December 13, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on December 18, 2023, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."

"My name is Benjamin Pence, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,  
State of Texas,  
on the 5th day of March, 2025

*Benjamin Pence*

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Declarant