

**Executive Summary – Enforcement Matter – Case No. 64993**  
**MIDWAY WATER UTILITIES, INC.**  
**RN101265213**  
**Docket No. 2023-1546-PWS-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:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

The Cliffs, located off of Highway 16, approximately 0.5 mile southwest of the Brazos River Bridge, Graford, Palo Pinto County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket Nos. 2023-1419-PWS-E and 2024-0215-PWS-E

Past-Due Penalties: Yes, Account #23616838 for Case No. 64896

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 5, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,200

**Total Paid to General Revenue:** \$20,200

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

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** \$4,500

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** September 4, 2023 through October 20, 2023

**Date(s) of NOE(s):** October 20, 2023

**Executive Summary – Enforcement Matter – Case No. 64993  
MIDWAY WATER UTILITIES, INC.  
RN101265213  
Docket No. 2023-1546-PWS-E**

***Violation Information***

1. Failed to meet minimum treatment technique requirements for a system that treats surface water before the water reaches the entry point to the distribution system [30 TEX. ADMIN. CODE § 290.111(c)(3)(B)].
2. Failed to achieve combined filter effluent ("CFE") turbidity levels that are less than 1.0 nephelometric turbidity unit ("NTU") during a period when individual filter effluent ("IFE") turbidity levels were above 2.0 NTU at one or more filters [30 TEX. ADMIN. CODE § 290.111(i)(4)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a)].
3. Failed to achieve a turbidity level of CFE that is less than 0.3 NTU in at least 95% of the samples tested [30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By December 1, 2023, met the minimum treatment technique requirements of cryptosporidium removal;
- b. By December 1, 2023, achieved CFE turbidity levels that are less than 1.0 NTU during a period when IFE turbidity levels were above 2.0 NTU at one or more filters; and
- c. By December 1, 2023, achieved a CFE that is 0.3 NTU or less in at least 95% of samples.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Taner Hengst, Enforcement Division, Enforcement Team 5, MC 219, (512) 239-1143; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Jeffrey McIntyre, President, MIDWAY WATER UTILITIES, INC., 2150 Town Square Place, Suite 400, Sugar Land, Texas 77479

**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>	30-Oct-2023	<b>Screening</b>	2-Nov-2023	<b>EPA Due</b>	31-Dec-2023
	<b>PCW</b>	3-Nov-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	MIDWAY WATER UTILITIES, INC.
<b>Reg. Ent. Ref. No.</b>	RN101265213
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	64993	<b>No. of Violations</b>	3
<b>Docket No.</b>	2023-1546-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Taner Hengst
		<b>EC's Team</b>	Enforcement Team 5
<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>	\$19,000
---	-------------------	----------

### 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>	40.0% Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$7,600
---------------------------	------------------	--------------------------------	---------

Notes: Enhancement for two NOVs with the same/similar violations, five NOVs with dissimilar violations, and one agreed order containing a denial of liability.

<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>	-\$1,900
--	-------------------	----------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$36  
 Estimated Cost of Compliance: \$2,100  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$24,700
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$24,700
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$20,200
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
-----------------	------	-----------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$20,200
------------------------	----------

**Screening Date** 2-Nov-2023

**Docket No.** 2023-1546-PWS-E

**PCW**

**Respondent** MIDWAY WATER UTILITIES, INC.

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 64993

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN101265213

**Media** Public Water Supply

**Enf. Coordinator** Taner Hengst

### 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	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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)** 40%

**>> 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 NOVs with the same/similar violations, five NOVs with dissimilar violations, and one agreed order containing a denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 40%

**Screening Date** 2-Nov-2023 **Docket No.** 2023-1546-PWS-E **PCW**  
**Respondent** MIDWAY WATER UTILITIES, INC. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 64993 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101265213  
**Media** Public Water Supply  
**Enf. Coordinator** Taner Hengst

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(c)(3)(B)

**Violation Description** Failed to meet minimum treatment technique requirements for a system that treats surface water before the water reaches the entry point to the distribution system. Specifically, the Respondent did not meet the minimum requirements for cryptosporidium removal for the month of July 2023.

**Base Penalty** \$5,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential	x				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Failure to meet minimum treatment requirements could result in persons served by the Facility being exposed to contaminants which would exceed levels protective of human health.

**Adjustment** \$3,500

\$1,500

**Violation Events**

Number of Violation Events: 1      31 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,500

One single event is recommended.

**Good Faith Efforts to Comply** 10.0% Reduction \$150

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

Extraordinary		
Ordinary		x
N/A		

**Notes** The Respondent achieved compliance on December 1, 2023.

**Violation Subtotal** \$1,350

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

**Estimated EB Amount** \$17      **Violation Final Penalty Total** \$1,950

**This violation Final Assessed Penalty (adjusted for limits)** \$1,950

## Economic Benefit Worksheet

**Respondent** MIDWAY WATER UTILITIES, INC.  
**Case ID No.** 64993  
**Reg. Ent. Reference No.** RN101265213  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$1,000	31-Jul-2023	1-Dec-2023	0.34	\$17	n/a	\$17

**Notes for DELAYED costs**

The delayed cost includes the estimated amount for additional maintenance and oversight to ensure minimum treatment technique requirements are met throughout the distribution system, calculated from the last date of the month of noncompliance to the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$17

**Screening Date** 2-Nov-2023 **Docket No.** 2023-1546-PWS-E **PCW**  
**Respondent** MIDWAY WATER UTILITIES, INC. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 64993 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101265213  
**Media** Public Water Supply  
**Enf. Coordinator** Taner Hengst

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(i)(4)(B) and Tex. Health & Safety Code § 341.031(a)  
**Violation Description** Failed to achieve combined filter effluent ("CFE") turbidity levels that are less than 1.0 nephelometric turbidity unit ("NTU") during a period when individual filter effluent ("IFE") turbidity levels were above 2.0 NTU at one or more filters. Specifically, the CFE exceeded 1.0 NTU for three days in July 2023.

**Base Penalty** \$5,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual	x		
Potential					

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
Failure to maintain required turbidity levels exposed persons served by the Facility to contaminants which exceed levels that are protective of human health.					

**Adjustment** \$0

\$5,000

**Violation Events**

Number of Violation Events 3 3 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$15,000

Three single events are recommended (one event per day).

**Good Faith Efforts to Comply** 10.0% Reduction \$1,500

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

Notes: The Respondent achieved compliance on December 1, 2023.

**Violation Subtotal** \$13,500

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

**Estimated EB Amount** \$17 **Violation Final Penalty Total** \$19,500

**This violation Final Assessed Penalty (adjusted for limits)** \$15,000

## Economic Benefit Worksheet

**Respondent** MIDWAY WATER UTILITIES, INC.  
**Case ID No.** 64993  
**Reg. Ent. Reference No.** RN101265213  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$1,000	31-Jul-2023	1-Dec-2023	0.34	\$17	n/a	\$17

**Notes for DELAYED costs**

The delayed cost includes the estimated amount for additional oversight that could have prevented the exceedances, calculated from the last date of the month of noncompliance to the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$17



**Screening Date** 2-Nov-2023 **Docket No.** 2023-1546-PWS-E **PCW**  
**Respondent** MIDWAY WATER UTILITIES, INC. *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 64993 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101265213  
**Media** Public Water Supply  
**Enf. Coordinator** Taner Hengst

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.111(e)(1)(B) and Tex. Health & Safety Code § 341.0315(c)  
**Violation Description** Failed to achieve a turbidity level of CFE that is less than 0.3 NTU in at least 95% of the samples tested during the month of July 2023.

**Base Penalty** \$5,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		50.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Failure to maintain required turbidity levels in at least 95% of samples tested each month caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

**Adjustment** \$2,500

\$2,500

**Violation Events**

Number of Violation Events 1 31 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$2,500

One single event is recommended.

**Good Faith Efforts to Comply** 10.0% Reduction \$250

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

**Notes** The Respondent achieved compliance on December 1, 2023.

**Violation Subtotal** \$2,250

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

**Estimated EB Amount** \$2 **Violation Final Penalty Total** \$3,250

**This violation Final Assessed Penalty (adjusted for limits)** \$3,250

## Economic Benefit Worksheet

**Respondent** MIDWAY WATER UTILITIES, INC.  
**Case ID No.** 64993  
**Reg. Ent. Reference No.** RN101265213  
**Media** Public Water Supply  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### 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)	\$100	31-Jul-2023	1-Dec-2023	0.34	\$2	n/a	\$2

**Notes for DELAYED costs**

The Other (as needed) delayed cost includes the estimated amount to determine the cause of noncompliance, make any necessary repairs or adjustments to the Facility, and maintain a CFE that is 0.3 NTU or less in at least 95% of the samples tested each month, calculated from the last date of the month of noncompliance to the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$100

**TOTAL** \$2

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 CN600663579, RN101265213, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN600663579, MIDWAY WATER UTILITIES, INC. **Classification:** SATISFACTORY **Rating:** 2.62

**Regulated Entity:** RN101265213, CLIFFS THE **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 3 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** OFF HIGHWAY 16, APPROXIMATELY 0.5 MILES SOUTHWEST OF THE BRAZOS RIVER BRIDGE NEAR GRAFORD, PALO PINTO COUNTY, TEXAS

**TCEQ Region:** REGION 04 - DFW METROPLEX

## ID Number(s):

**AIR QUALITY NON PERMITTED ID NUMBER**

R04101265213

**PETROLEUM STORAGE TANK REGISTRATION**

REGISTRATION 67095

**CLEAN WATER CERTIFICATION PROGRAM ID NUMBER**

POS550

**CLEAN WATER CERTIFICATION PROGRAM ID NUMBER**

POS562

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION**

1820061

**CLEAN WATER CERTIFICATION PROGRAM ID NUMBER**

POS564

**CLEAN WATER CERTIFICATION PROGRAM ID NUMBER**

POS563

**Compliance History Period:** September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

**Date Compliance History Report Prepared:** April 23, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 23, 2019 to April 23, 2024

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

**Name:** Taner Hengst

**Phone:** (512) 239-1143

## 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? YES
- 3) Who is the current owner/operator?  
The Cliffs Resort, Inc. OWNER OPERATOR since 1/11/2007  
Young County Butane, Inc. OWNER since 1/23/1997  
Midway Water Utilities, Inc. OWNER since 11/16/2020  
AC BLUFF CREEK MARINA, LLC OWNER since 12/9/2021
- 4) Who was/were the prior owner(s)/operator(s)?  
AC Cliffs Marina, LLC, OWNER, 1/3/2020 to 12/8/2021  
Double Diamond Utilities Co., OWNER, 10/19/2006 to 11/15/2020  
Double Diamond, Inc., OWNER, 4/6/2018 to 1/3/2020

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

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

- 1 Effective Date: 05/19/2020 ADMINORDER 2019-1518-PWS-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(2)  
Description: Failed to institute special precautions as described in the flowchart found in 30 TEX. ADMIN. CODE § 290.47(e) in the event of low distribution pressures and water outages, in violation of 30 TEX. ADMIN. CODE § 290.46(q)(2). Specifically, on August 10, 2019, a valve closure at Spyglass Drive and Heritage Drive caused water outages, and the water system did not immediately collect the required bacteriological samples after flushing the distribution system.



Citation: 30 TAC Chapter 290, SubChapter D 290.44(c)  
Description: Failure to provide the minimum required line size for the water main serving the employee housing area.  
EIC C4 MOD(2)(G)

7 Date: 12/11/2023 (1944766)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(2)  
30 TAC Chapter 290, SubChapter D 290.45(b)(2)(F)  
Description: Failure to provide a minimum service pump capacity of 2.0 gpm per connection.  
EIC B18(c)(10) MOD(2)(G)

**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  
MIDWAY WATER UTILITIES, INC.  
RN101265213

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-1546-PWS-E

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MIDWAY WATER UTILITIES, INC. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. 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 public water supply located off Highway 16, approximately 0.5 miles Southwest of the Brazos River Bridge near Graford, Palo Pinto County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 311 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(73).
2. During a record review for the Facility conducted on September 4, 2023 through October 20, 2023, an investigator documented that:
  - a. The Respondent did not meet the minimum requirements of cryptosporidium removal for the month of July 2023.
  - b. The combined filter effluent ("CFE") exceeded 1.0 nephelometric turbidity unit ("NTU") for three days in July 2023.
  - c. The Respondent did not achieve a turbidity level of CFE that is less than 0.3 NTU in at least 95% of the samples tested during the month of July 2023.

3. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
  - a. By December 1, 2023, met the minimum treatment technique requirements of cryptosporidium removal;
  - b. By December 1, 2023, achieved CFE turbidity levels that are less than 1.0 NTU during a period when individual filter effluent ("IFE") turbidity levels were above 2.0 NTU at one or more filters; and
  - c. By December 1, 2023, achieved a CFE that is 0.3 NTU or less in at least 95% of samples.

## 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. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a, the Respondent failed to meet minimum treatment technique requirements for a system that treats surface water before the water reaches the entry point to the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.111(c)(3)(B).
3. As evidenced by Finding of Fact No. 2.b, the Respondent failed to achieve CFE turbidity levels that are less than 1.0 NTU during a period when IFE turbidity levels were above 2.0 NTU at one or more filters, in violation of 30 TEX. ADMIN. CODE § 290.111(i)(4)(B) and TEX. HEALTH & SAFETY CODE § 341.031(a).
4. As evidenced by Finding of Fact No. 2.c, the Respondent failed to achieve a turbidity level of CFE that is less than 0.3 NTU in at least 95% of the samples tested, in violation of 30 TEX. ADMIN. CODE § 290.111(e)(1)(B) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), 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.
6. An administrative penalty in the amount of \$20,200 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$20,200 penalty.

## 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. 6 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: MIDWAY WATER UTILITIES, INC., Docket No. 2023-1546-PWS-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. All relief not expressly granted in this Order is denied.
3. 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.
4. 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.
5. 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.
6. 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.
7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized



by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE


TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date

-----  
For the Executive Director

-----  
Date



7/1/2024

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 OAG 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 OAG 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  
MIDWAY WATER UTILITIES, INC.

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

12535 Reed Rd location has changed to:  
2150 Town Square Place  
Suite 900  
Sugar Land, TX 77479

**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.