

Executive Summary – Enforcement Matter – Case No. 65399
MIDWAY WATER UTILITIES, INC.
RN101265213
Docket No. 2024-0215-MLM-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM – PWS, WR

Small Business:

No

Location(s) Where Violation(s) Occurred:

The Cliffs, 8615 Texas Highway 16, Graford, Palo Pinto County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 1, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,199

Amount Deferred for Expedited Settlement: \$3,639

Total Paid to General Revenue: \$14,560

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: WR: No; PWS: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 29, 2024

Date(s) of NOE(s): February 2, 2024

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Docket No. 2024-0215-MLM-E

Violation Information

1. Failed to calibrate the Facility's benchtop turbidimeter with primary standards at least once every 90 days and check the calibration with secondary standards each time a series of samples is tested [30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i) and (s)(2)(B)(ii)].
2. Failed to calibrate the Facility's two on-line turbidimeters with primary standards at least once every 90 days and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week [30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(iii) and (s)(2)(B)(iv)].
3. Failed to notify the Executive Director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities. Specifically, the Respondent did not notify the Executive Director prior to utilizing polymer ahead of the pressure filters, adding two 30-micron cartridge filters after the pressure filters, and changing the two 5-micron cartridge filters before the reverse osmosis units to one 1-micron cartridge filter [30 TEX. ADMIN. CODE § 290.39(j) and TEX. HEALTH & SAFETY CODE § 341.0351].
4. Failed to flush all dead-end mains at monthly intervals. Specifically, the Respondent was flushing at hydrants near the dead ends instead of at all dead-end mains [30 TEX. ADMIN. CODE § 290.46(l)].
5. Failed to collect routine distribution coliform samples at a customer's premise, dedicated sampling station, or other designated compliance sampling location at active service connections which are representative of water quality throughout the distribution system. Specifically, the sampling locations were not equally distributed throughout the distribution system as there were no bacteriological sampling locations on the southern part of the sampling map [30 TEX. ADMIN. CODE § 290.109(d)(1)(A)].
6. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day. Specifically, the monitoring locations were not equally distributed throughout the distribution system as there were no disinfectant monitoring locations on the southern part of the sampling map [30 TEX. ADMIN. CODE § 290.110(c)(4)(C)].
7. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, the on-line turbidity monitoring results and exception reports for individual filters, the results of inspections for all water storage and pressure maintenance facilities, the results of inspections for all pressure filters, and the previous one and a half years of Customer Service Inspection reports were not maintained on-site for review [30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(C)(iv), (f)(3)(D)(ii), (f)(3)(D)(iii), and (f)(3)(E)(iv)].

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8. Failed to ensure that the Facility has at least one Class "C" or higher surface water operator on duty when it is in operation or that the Facility is provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the Facility is not staffed. Specifically, the plant does not automatically shutdown if an alarm is triggered and there are no operators on-site overnight [30 TEX. ADMIN. CODE § 290.46(e)(6)(C)].

9. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids. Specifically, five of the six pressure filters were leaking from their effluent lines [30 TEX. ADMIN. CODE § 290.46(m)(4)].

10. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted [30 TEX. ADMIN. CODE § 290.46(i)].

11. Failed to install water transmission and distribution lines below the frost line and in no case less than 24 inches below the ground surface. Specifically, the raw water transmission line and distribution line leaving the plant were sitting above ground [30 TEX. ADMIN. CODE § 290.44(a)(4)].

12. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].

13. Failed to have all backflow prevention assemblies ("BPAs") tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications. Specifically, BPAs at the restaurant, the marina, the marina ice machine, and the wastewater treatment plant were not being tested on an annual basis [30 TEX. ADMIN. CODE § 290.44(h)(4)].

14. Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier [30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B), and TEX. WATER CODE § 11.1272(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures by February 1, 2024:

a. Began collecting routine distribution coliform samples at a customer's premise, dedicated sampling station, or other designated compliance sampling location at active service connections which are representative of water quality throughout the distribution system;

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- b. Began monitoring the disinfectant residual at representative locations throughout the distribution system at least once per day;
- c. Made the results of inspections for all water storage and pressure maintenance facilities and Customer Service Inspection reports readily available for review by the Executive Director;
- d. Adopted an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted;
- e. Adopted a drought contingency plan which includes all elements for municipal use by a retail public water supplier; and
- f. Compiled and maintained a thorough and up-to-date plant operations manual for operator review and reference.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Compile and maintain properly completed water works operation and maintenance records, including but not limited to, the results of pressure filter inspections and on-line turbidity monitoring results and exception reports for individual filters;
 - ii. Calibrate the benchtop turbidimeter with primary standards and check the calibration with secondary standards each time a series of samples is tested. This provision will be satisfied upon one month of compliant monitoring;
 - iii. Calibrate the two on-line turbidimeters with primary standards and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week. This provision will be satisfied upon one month of compliant monitoring; and
 - iv. Begin flushing all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels. This provision will be satisfied upon three months of consecutive compliant monthly flushing.
- b. Within 45 days, submit written certification to demonstrate compliance with a.i.
- c. Within 60 days:

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- i. Repair the automatic plant shutdown and alarms at the Facility;
- ii. Begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units and all related appurtenances in a watertight condition, including but not limited to the five pressure filters that were leaking from their effluent lines; and
- iii. Ensure that all BPAs are tested upon installation and on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, including but not limited to the BPAs at the restaurant, the marina, the marina ice machine, and the wastewater treatment plant.
- d. Within 75 days, submit written certification to demonstrate compliance with a.ii., a.iii., and c.
- e. Within 90 days, ensure that all water transmission and distribution lines are located below the frost line and in no case less than 24 inches below the ground surface.
- f. Within 105 days, submit written certification to demonstrate compliance with e.
- g. Within 135 days, submit written certification to demonstrate compliance with a.iv.
- h. Within 180 days, submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for the significant changes made to the Facility's production and treatment, including but not limited to utilizing polymer ahead of the pressure filters, adding two 30-micron cartridge filters after the pressure filters, and changing the two 5-micron cartridge filters before the reverse osmosis units to one 1-micron cartridge filter.
- i. Within 195 days, submit written certification to demonstrate compliance with h.
- j. Within 270 days, obtain approval of the as-built plans and specifications for the significant changes made to the Facility from the Executive Director.
- k. Within 285 days, submit written certification to demonstrate compliance with j.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Kaisie Hubschmitt, Enforcement Division, Enforcement Team 5, MC 219, (512) 239-1482; 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

DATES	Assigned	5-Feb-2024	Screening	7-Feb-2024	EPA Due	
	PCW	26-Feb-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)				
Reg. Ent. Ref. No.	RN101265213				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Major	

CASE INFORMATION

Enf./Case ID No.	65399	No. of Violations	13
Docket No.	2024-0215-MLM-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media	Water Rights	Enf. Coordinator	Kaisie Hubschmitt
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$16,800
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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	30.0%	Adjustment	Subtotals 2, 3, & 7	\$5,040
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Notes	Enhancement for five NOV's with dissimilar violations and one agreed order containing a denial of liability.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.				
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$874
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,197	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$6,783	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,966
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-15.2%	Adjustment	-\$3,192
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided costs associated with Violation Nos. 1, 2, and 13. Recommended reduction to offset the portion of the Compliance History adjustment caused by the Agreed Order that occurred prior to the change in ownership.		
	Final Penalty Amount	\$17,774	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,774
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,554
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
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PAYABLE PENALTY	\$14,220
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Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	65399			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN101265213			
Media	Public Water Supply			
Enf. Coordinator	Kaisie Hubschmitt			

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	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) 30%

>> 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 five NOVs with dissimilar violations and one agreed order containing a denial of liability.
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Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)			Policy Revision 5 (January 28, 2021)
Case ID No.	65399			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101265213			
Media	Public Water Supply			
Enf. Coordinator	Kaisie Hubschmitt			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 290.46(s)(2)(B)(i) and (s)(2)(B)(ii)			
Violation Description	Failed to calibrate the Facility's benchtop turbidimeter with primary standards at least once every 90 days and check the calibration with secondary standards each time a series of samples is tested.			
		Base Penalty	\$5,000	
>> Environmental, Property and Human Health Matrix				
OR		Release	Harm	
		Major	Moderate	Minor
	Actual			
	Potential		x	
				Percent 15.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0.0%
Matrix Notes	Failure to calibrate the benchtop turbidimeter could cause inaccurate data collection and prevent detection of treatment problems and could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.			
		Adjustment	\$4,250	
			\$750	
Violation Events				
	Number of Violation Events	1	9	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
		One single event is recommended.		
Good Faith Efforts to Comply				
		0.0%	Reduction	\$0
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary			
	Ordinary			
	N/A	x		
	Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	\$750	
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
	Estimated EB Amount	\$12	Violation Final Penalty Total	\$827
	This violation Final Assessed Penalty (adjusted for limits)			\$827

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10	26-Apr-2022	21-Feb-2025	2.83	\$1	n/a	\$1

Notes for DELAYED costs

The Other (as needed) delayed cost includes the estimated amount to calibrate the benchtop turbidimeter with primary standards at least once every 90 days and check the calibration with secondary standards each time a series of samples is tested, calculated from the date of the investigation initially documenting the violation 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	\$10	26-Apr-2022	7-Feb-2024	1.79	\$1	\$10	\$11
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to calibrate the benchtop turbidimeter with primary standards at least once every 90 days and check the calibration with secondary standards each time a series of samples is tested, calculated from the date of the investigation initially documenting the violation to the screening date.

Approx. Cost of Compliance

\$20

TOTAL

\$12

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E Base Penalty \$5,000	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	2		
Rule Cite(s)	30 Tex. Admin. Code § 290.46(s)(2)(B)(iii) and (s)(2)(B)(iv)		
Violation Description	Failed to calibrate the Facility's two on-line turbidimeters with primary standards at least once every 90 days and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week.		

Base Penalty				\$5,000
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>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		
					Percent 15.0%

>> Programmatic Matrix

Matrix Notes	Falsification				
	Major	Moderate	Minor		
					Percent 0.0%
Failure to calibrate the on-line turbidimeters could cause inaccurate data collection and prevent detection of treatment problems and could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.					
Adjustment					\$4,250

Adjustment		\$4,250
		\$750

Violation Events

Number of Violation Events	2	9	Number of violation days
daily			
weekly			
monthly			
quarterly			
semiannual			
annual			
single event	x		
Two single events are recommended (one event for each on-line turbidimeter).			

Good Faith Efforts to Comply	0.0%	Reduction	\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	x		
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		\$1,500	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount	\$25
Violation Final Penalty Total	\$1,653
This violation Final Assessed Penalty (adjusted for limits)	\$1,653

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20	26-Apr-2022	21-Feb-2025	2.83	\$3	n/a	\$3

Notes for DELAYED costs

The delayed cost includes the estimated amount to calibrate the on-line turbidimeters with primary standards at least once every 90 days and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week (\$10 per turbidimeter x two turbidimeters), calculated from the date of the investigation initially documenting the violation 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	\$20	26-Apr-2022	7-Feb-2024	1.79	\$2	\$20	\$22
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to calibrate the on-line turbidimeters with primary standards at least once every 90 days and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week (\$10 per turbidimeter x two turbidimeters), calculated from the date of the investigation initially documenting the violation to the date of screening.

Approx. Cost of Compliance

\$40

TOTAL

\$25

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E <div style="border: 1px solid black; padding: 5px;"> Violation Number 3 </div> <div style="border: 1px solid black; padding: 5px;"> Rule Cite(s) 30 Tex. Admin. Code § 290.39(j) and Tex. Health & Safety Code § 341.0351 </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Violation Description Failed to notify the Executive Director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities. Specifically, the Respondent did not notify the Executive Director prior to utilizing polymer ahead of the pressure filters, adding two 30-micron cartridge filters after the pressure filters, and changing the two 5-micron cartridge filters before the reverse osmosis units to one 1-micron cartridge filter. </div>	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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	Base Penalty \$5,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 20.0%

Matrix Notes	100% of the rule requirements were not met.
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	Adjustment \$4,000
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	Violation Subtotal \$1,000
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Violation Events

Number of Violation Events	5	9	Number of violation days
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	daily		Violation Base Penalty \$5,000
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

Five single events are recommended (one event for each unapproved component).

Good Faith Efforts to Comply

	0.0%	
		Reduction \$0

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

Notes	The Respondent does not meet the good faith criteria for this violation.
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	Violation Subtotal \$5,000
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Economic Benefit (EB) for this violation

	Statutory Limit Test
Estimated EB Amount \$486	Violation Final Penalty Total \$5,510
This violation Final Assessed Penalty (adjusted for limits) \$5,510	

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	26-Apr-2022	21-Jul-2025	3.24	\$486	n/a	\$486

Notes for DELAYED costs

The delayed cost includes the estimated amount to notify and receive approval from the Executive Director for the significant changes to the water system, calculated from the date of the investigation initially documenting the violation 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

\$3,000

TOTAL

\$486

Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW		
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)			Policy Revision 5 (January 28, 2021)		
Case ID No.	65399			PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN101265213					
Media	Public Water Supply					
Enf. Coordinator	Kaisie Hubschmitt					
Violation Number	4					
Rule Cite(s)	30 Tex. Admin. Code § 290.46(l)					
Violation Description	Failed to flush all dead-end mains at monthly intervals. Specifically, the Respondent was flushing at hydrants near the dead ends instead of at all dead-end mains.					
		Base Penalty	\$5,000			
>> Environmental, Property and Human Health Matrix						
OR		Release	Harm			
		Major	Moderate	Minor		
	Actual					
	Potential		x			
				Percent 15.0%		
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
						Percent 0.0%
Matrix Notes	Failure to flush dead-end mains at monthly intervals could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.					
		Adjustment	\$4,250			
			\$750			
>> Violation Events						
		Number of Violation Events	1	9	Number of violation days	
		daily				
		weekly				
		monthly				
		quarterly		x		
		semiannual				
		annual				
		single event				
		One quarterly event is recommended, calculated from the January 29, 2024 record review date to the February 7, 2024 screening date.				
>> Good Faith Efforts to Comply						
			0.0%	Reduction	\$0	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer			
		Extraordinary				
		Ordinary				
		N/A	x			
	Notes	The Respondent does not meet the good faith criteria for this violation.				
		Violation Subtotal	\$750			
>> Economic Benefit (EB) for this violation						
		Statutory Limit Test				
	Estimated EB Amount	\$14	Violation Final Penalty Total	\$827		
	This violation Final Assessed Penalty (adjusted for limits)		\$827			

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	26-Apr-2022	21-Feb-2025	2.83	\$14	n/a	\$14

Notes for DELAYED costs

The delayed cost includes the estimated amount to initiate a monthly flushing program, calculated from the date of the investigation initially documenting the violation 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

\$100

TOTAL

\$14

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	5	
Rule Cite(s)		30 Tex. Admin. Code § 290.109(d)(1)(A)
Violation Description		Failed to collect routine distribution coliform samples at a customer's premise, dedicated sampling station, or other designated compliance sampling location at active service connections which are representative of water quality throughout the distribution system. Specifically, the sampling locations were not equally distributed throughout the distribution system as there were no bacteriological sampling locations on the southern part of the sampling map.

Base Penalty	\$5,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		Percent 15.0%

>> Programmatic Matrix

Matrix Notes		Falsification			
		Major	Moderate	Minor	
					Percent 0.0%
		Failure to collect routine coliform samples at active service connections throughout the distribution system could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.			

Adjustment	\$4,250
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	\$750
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Violation Events

Number of Violation Events	1	3	Number of violation days
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daily							
weekly							
monthly							
quarterly	x						
semiannual							
annual							
single event							

Violation Base Penalty	\$750
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One quarterly event is recommended, calculated from the January 29, 2024 record review date to the February 1, 2024 compliance date.

Good Faith Efforts to Comply

	25.0%	
		Reduction
		\$187

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer				
Extraordinary						
Ordinary	x					
N/A						
Notes	The Respondent achieved compliance on February 1, 2024.					

Violation Subtotal	\$563
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Economic Benefit (EB) for this violation

Estimated EB Amount	Statutory Limit Test
\$9	

Violation Final Penalty Total	\$668
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This violation Final Assessed Penalty (adjusted for limits)	\$668
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Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 5

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	\$100	26-Apr-2022	1-Feb-2024	1.77	\$9	n/a	\$9
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 collect bacteriological samples at representative locations noted in the Facility's monitoring plan, calculated from the date of the investigation initially documenting the violation 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

\$9

Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)	Policy Revision 5 (January 28, 2021) PCW Revision February 11, 2021		
Case ID No.	65399			
Reg. Ent. Reference No.	RN101265213			
Media	Public Water Supply			
Enf. Coordinator	Kaisie Hubschmitt			
Violation Number	6			
Rule Cite(s)	30 Tex. Admin. Code § 290.110(c)(4)(C)			
Violation Description	Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day. Specifically, the monitoring locations were not equally distributed throughout the distribution system as there were no disinfectant monitoring locations on the southern part of the sampling map.			
		Base Penalty	\$5,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes: Failure to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$4,250

\$750

Violation Events

Number of Violation Events	1	3	Number of violation days
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	daily					
	weekly					
	monthly					
	quarterly		x			
	semiannual					
	annual					
	single event					

Violation Base Penalty \$750

One quarterly event is recommended, calculated from the January 29, 2024 record review date to the February 1, 2024 compliance date.

Good Faith Efforts to Comply Reduction

	25.0%	
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		
Notes	The Respondent achieved compliance on February 1, 2024.	

Violation Subtotal \$563

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$1	Violation Final Penalty Total \$668
This violation Final Assessed Penalty (adjusted for limits) \$668	

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10	26-Apr-2022	1-Feb-2024	1.77	\$1	n/a	\$1

Notes for DELAYED costs

The delayed cost includes the estimated amount to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day, calculated from the date of the investigation initially documenting the violation 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

\$10

TOTAL

\$1

Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW		
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)			Policy Revision 5 (January 28, 2021)		
Case ID No.	65399			PCW Revision February 11, 2021		
Reg. Ent. Reference No.	RN101265213					
Media	Public Water Supply					
Enf. Coordinator	Kaisie Hubschmitt					
Violation Number	7					
Rule Cite(s)	30 Tex. Admin. Code § 290.46(f)(2), (f)(3)(C)(iv), (f)(3)(D)(ii), (f)(3)(D)(iii), and (f)(3)(E)(iv)					
Violation Description	Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request. Specifically, the on-line turbidity monitoring results and exception reports for individual filters, the results of inspections for all water storage and pressure maintenance facilities, the results of inspections for all pressure filters, and the previous one and a half years of Customer Service Inspection reports were not maintained on-site for review.					
Base Penalty			\$5,000			
>> Environmental, Property and Human Health Matrix						
OR	Release	Major	Moderate	Minor	Percent	0.0%
	Actual					
	Potential					
>> Programmatic Matrix					Percent	1.0%
	Falsification	Major	Moderate	Minor		
				x		
Matrix Notes	Less than 30% of the rule requirements were not met.					
Adjustment			\$4,950			
					\$50	
>> Violation Events						
Number of Violation Events		1	9	Number of violation days		
	daily			Violation Base Penalty		\$50
	weekly					
	monthly					
	quarterly					
	semiannual					
	annual					
	single event	x				
One single event is recommended.						
Good Faith Efforts to Comply			0.0%	Reduction	\$0	
	Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary					
	Ordinary					
	N/A	x				
Notes	The Respondent does not meet the good faith criteria for this violation.					
Violation Subtotal			\$50			
>> Economic Benefit (EB) for this violation					>> Statutory Limit Test	
Estimated EB Amount		\$6	Violation Final Penalty Total		\$55	
This violation Final Assessed Penalty (adjusted for limits)					\$55	

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 7

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	\$45	26-Apr-2022	21-Feb-2025	2.83	\$6	n/a	\$6
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 maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, calculated from the date of the investigation initially documenting the violation 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

\$45

TOTAL

\$6

Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)			Policy Revision 5 (January 28, 2021)
Case ID No.	65399			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101265213			
Media	Public Water Supply			
Enf. Coordinator	Kaisie Hubschmitt			
Violation Number	8			
Rule Cite(s)	30 Tex. Admin. Code § 290.46(e)(6)(C)			
Violation Description	Failed to ensure that the Facility has at least one Class "C" or higher surface water operator on duty when it is in operation or that the Facility is provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the Facility is not staffed. Specifically, the plant does not automatically shutdown if an alarm is triggered and there are no operators on-site overnight.			
		Base Penalty	\$5,000	
>> Environmental, Property and Human Health Matrix				
OR		Harm		
	Release	Major	Moderate	Minor
	Actual			
	Potential	x		
		Percent	30.0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	Percent	0.0%		
Matrix Notes	Failure to ensure that the Facility is staffed by an appropriately licensed operator or the plant provides automatic shutdown with alarms to summon operators during periods when the surface water treatment plant is not staffed could expose customers of the Facility to contaminants which would exceed levels protective of human health.			
		Adjustment	\$3,500	
			\$1,500	
Violation Events				
	Number of Violation Events	1	9	Number of violation days
		daily		
		weekly		
		monthly	x	
		quarterly		
		semiannual		
		annual		
		single event		
		Violation Base Penalty	\$1,500	
	One monthly event is recommended, calculated from the January 29, 2024 record review date to the February 7, 2024 screening date.			
Good Faith Efforts to Comply				
		0.0%	Reduction	\$0
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
	Extraordinary			
	Ordinary			
	N/A	x		
	Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	\$1,500	
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
	Estimated EB Amount	\$145	Violation Final Penalty Total	\$1,653
	This violation Final Assessed Penalty (adjusted for limits)			\$1,653

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	26-Apr-2022	21-Mar-2025	2.90	\$145	n/a	\$145

Notes for DELAYED costs

The delayed cost includes the estimated amount to repair the automatic plant shutdown and alarms at the Facility, calculated from the date of the investigation initially documenting the violation 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

\$145

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	9	
Rule Cite(s)		30 Tex. Admin. Code § 290.46(m)(4)
Violation Description	Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids. Specifically, five of the six pressure filters were leaking from their effluent lines.	

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		Percent 15.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0.0%

Matrix Notes	Failure to maintain the pressure filters in a watertight condition could expose persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.
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Adjustment \$4,250

\$750

Violation Events

Number of Violation Events	1		9	Number of violation days
----------------------------	--	--	--	--------------------------

	daily					
	weekly					
	monthly					
	quarterly	x				
	semiannual					
	annual					
	single event					

Violation Base Penalty \$750

One quarterly event is recommended, calculated from the January 29, 2024 record review date to the February 7, 2024 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.		

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Estimated EB Amount \$102	Statutory Limit Test
	Violation Final Penalty Total \$827
This violation Final Assessed Penalty (adjusted for limits) \$827	

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 9

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)	\$500	26-Apr-2022	21-Mar-2025	2.90	\$5	\$97	\$102
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 repair the leaks at the Facility, calculated from the date of the investigation initially documenting the violation 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

\$500

TOTAL

\$102

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E <div style="border: 1px solid black; padding: 5px;"> Violation Number 10 </div> <div style="border: 1px solid black; padding: 5px;"> Rule Cite(s) 30 Tex. Admin. Code § 290.46(i) </div> <div style="border: 1px solid black; padding: 5px;"> Violation Description Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted. </div>	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Base Penalty

\$5,000

>> Environmental, Property and Human Health Matrix

OR

	Release	Major	Harm Moderate	Minor	
Actual					Percent <div style="border: 1px solid black; padding: 2px 20px;">0.0%</div>
Potential					

>> Programmatic Matrix

Matrix Notes

Falsification	Major	Moderate	Minor	
	x			Percent <div style="border: 1px solid black; padding: 2px 20px;">20.0%</div>

100% of the rule requirements were not met.

Adjustment

\$4,000

\$1,000

Violation Events

Number of Violation Events

1

Number of violation days

3

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty

\$1,000

One single event is recommended.

Good Faith Efforts to Comply

Before NOE/NOV
 Extraordinary
 Ordinary

x

 N/A

NOE/NOV to EDPRP/Settlement Offer

Notes

The Respondent achieved compliance on February 1, 2024.

Reduction

\$250

Violation Subtotal

\$750

Economic Benefit (EB) for this violation
Statutory Limit Test

Estimated EB Amount

\$4

Violation Final Penalty Total

\$890

This violation Final Assessed Penalty (adjusted for limits)

\$890

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$40	26-Apr-2022	1-Feb-2024	1.77	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount to adopt an adequate plumbing ordinance or service agreement, calculated from the date of the investigation initially documenting the violation 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

\$40

TOTAL

\$4

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E <div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 290.44(a)(4)</div>	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	11		
Rule Cite(s)			
Violation Description	Failed to install water transmission and distribution lines below the frost line and in no case less than 24 inches below the ground surface. Specifically, the raw water transmission line and distribution line leaving the plant were sitting above ground.		
Base Penalty			\$5,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	
	Potential	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 50px; text-align: center;">30.0%</div>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; width: 50px; text-align: center;">0.0%</div>
Matrix Notes	Failure to locate the water distribution lines below the frost line could result in its damage and introduction of contaminants to the finished water which would exceed levels protective of human health.				
Adjustment					<div style="border: 1px solid black; width: 100px; text-align: center;">\$3,500</div>

\$1,500

Violation Events

Number of Violation Events	<div style="border: 1px solid black; width: 50px; text-align: center;">1</div>		<div style="border: 1px solid black; width: 50px; text-align: center;">9</div>	Number of violation days
	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	weekly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>		
	quarterly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Violation Base Penalty <div style="border: 1px solid black; width: 100px; text-align: center;">\$1,500</div>				

One monthly event is recommended, calculated from the January 29, 2024 record review date to the February 7, 2024 screening date.

Good Faith Efforts to Comply

	<div style="border: 1px solid black; width: 50px; text-align: center;">0.0%</div>		Reduction	\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer		
Extraordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Ordinary	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
N/A	<div style="border: 1px solid black; width: 50px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				<div style="border: 1px solid black; width: 100px; text-align: center;">\$1,500</div>

Economic Benefit (EB) for this violation

Estimated EB Amount	<div style="border: 1px solid black; width: 100px; text-align: center;">\$224</div>
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Statutory Limit Test

Violation Final Penalty Total	<div style="border: 1px solid black; width: 100px; text-align: center;">\$1,653</div>
This violation Final Assessed Penalty (adjusted for limits) <div style="border: 1px solid black; width: 100px; text-align: center;">\$1,653</div>	

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	26-Apr-2022	22-Apr-2025	2.99	\$224	n/a	\$224

Notes for DELAYED costs

The delayed cost includes the estimated amount to relocate distribution water lines to no less than 24 inches below the ground surface, calculated from the date of the investigation initially documenting the violation 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

\$1,500

TOTAL

\$224

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	12	
Rule Cite(s)		30 Tex. Admin. Code § 290.42(I)
Violation Description	Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference.	

Base Penalty	\$5,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text"/>	<input type="text"/>	<input type="text"/>	

20.0%

Matrix Notes	100% of the rule requirements were not met.
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Adjustment	\$4,000
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	\$1,000
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Violation Events

Number of Violation Events	1		3	Number of violation days
----------------------------	---	--	---	--------------------------

	daily	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text"/>	

\$1,000

One single event is recommended.

Good Faith Efforts to Comply

25.0%	Reduction
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	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	<input type="text"/>	

Notes	The Respondent achieved compliance on February 1, 2024.
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Violation Subtotal	\$750
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$16	Statutory Limit Test
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	\$890	Violation Final Penalty Total
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This violation Final Assessed Penalty (adjusted for limits)	\$890
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Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$180	26-Apr-2022	1-Feb-2024	1.77	\$16	n/a	\$16

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop and maintain a thorough and up-to-date plant operations manual, calculated from the date of the investigation initially documenting the violation 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

\$180

TOTAL

\$16

Screening Date 7-Feb-2024 Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2) Case ID No. 65399 Reg. Ent. Reference No. RN101265213 Media Public Water Supply Enf. Coordinator Kaisie Hubschmitt	Docket No. 2024-0215-MLM-E	PCW <i>Policy Revision 5 (January 28, 2021)</i> <i>PCW Revision February 11, 2021</i>
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Violation Number	13	
Rule Cite(s)	30 Tex. Admin. Code § 290.44(h)(4)	
Violation Description	Failed to have all backflow prevention assemblies ("BPAs") tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications. Specifically, BPAs at the restaurant, the marina, the marina ice machine, and the wastewater treatment plant were not being tested on an annual basis.	

Base Penalty	\$5,000
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>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="30.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text" value="0.0%"/>

Matrix Notes	Failure to test BPAs on an annual basis would not ensure the device is operating properly which could result in a reverse flow of contaminants entering into the water mains which would exceed levels protective of human health.
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Adjustment	\$3,500
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	\$1,500
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Violation Events

Number of Violation Events	1	9	Number of violation days
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	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	x	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	Violation Base Penalty <input style="width: 100px;" type="text" value="\$1,500"/>

One monthly event is recommended, calculated from the January 29, 2024 record review date to the February 7, 2024 screening date.

Good Faith Efforts to Comply

0.0%	Reduction	\$0
	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal	\$1,500
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Economic Benefit (EB) for this violation

Estimated EB Amount	\$153
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Statutory Limit Test

Violation Final Penalty Total	\$1,653
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This violation Final Assessed Penalty (adjusted for limits)	\$1,653
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Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 1 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Public Water Supply
Violation No. 13

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$124	26-Apr-2022	21-Mar-2025	2.90	\$18	n/a	\$18

Notes for DELAYED costs

The Other (as needed) delayed cost includes the estimated amount to test the BPAs (\$31 x four locations), calculated from the date of the investigation initially documenting the violation 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	\$124	26-Apr-2022	7-Feb-2024	1.79	\$11	\$124	\$135
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to test the BPAs (\$31 x four locations), calculated from the date of the investigation initially documenting the violation to the screening date.

Approx. Cost of Compliance

\$248

TOTAL

\$153



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	5-Feb-2024	Screening	7-Feb-2024	EPA Due	
	PCW	26-Feb-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 2 of 2)				
Reg. Ent. Ref. No.	RN101265213				
Facility/Site Region	4-Dallas/Fort Worth		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	65399	No. of Violations	1
Docket No.	2024-0215-MLM-E	Order Type	1660
Media Program(s)	Water Rights	Government/Non-Profit	No
Multi-Media	Public Water Supply	Enf. Coordinator	Kaisie Hubschmitt
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 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.

Compliance History	30.0%	Adjustment	Subtotals 2, 3, & 7	\$150
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Notes	Enhancement for five NOV's with dissimilar violations and one agreed order containing a denial of liability.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.				
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$125
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$32	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$360	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$525
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-19.0%	Adjustment	-\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended reduction to offset the portion of the Compliance History adjustment caused by the Agreed Order that occurred prior to the change in ownership.			
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Final Penalty Amount	\$425
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$425
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DEFERRAL	20.0%	Reduction	Adjustment	-\$85
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.			
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PAYABLE PENALTY	\$340
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Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 2 of 2)			Policy Revision 5 (January 28, 2021)
Case ID No.	65399			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101265213			
Media	Water Rights			
Enf. Coordinator	Kaisie Hubschmitt			

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	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) 30%

>> 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 five NOVs with dissimilar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date	7-Feb-2024	Docket No.	2024-0215-MLM-E	PCW
Respondent	MIDWAY WATER UTILITIES, INC. (PCW No. 2 of 2)			Policy Revision 5 (January 28, 2021)
Case ID No.	65399			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN101265213			
Media	Water Rights			
Enf. Coordinator	Kaisie Hubschmitt			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 288.20(a) and 288.30(5)(B), and Tex. Water Code § 11.1272(c)			
Violation Description	Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier.			
		Base Penalty	\$5,000	
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual Potential			
			Percent	0.0%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		x		
			Percent	10.0%
Matrix Notes	100% of the rules requirements were not met.			
		Adjustment	\$4,500	
			\$500	
Violation Events				
	Number of Violation Events	1	3	Number of violation days
	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
			Violation Base Penalty	\$500
	One single event is recommended.			
Good Faith Efforts to Comply				
		25.0%	Reduction	\$125
		Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer		
	Extraordinary			
	Ordinary	x		
	N/A			
	Notes	The Respondent achieved compliance on February 1, 2024.		
		Violation Subtotal	\$375	
Economic Benefit (EB) for this violation				
	Statutory Limit Test			
	Estimated EB Amount	\$32	Violation Final Penalty Total	\$425
	This violation Final Assessed Penalty (adjusted for limits)			\$425

Economic Benefit Worksheet

Respondent MIDWAY WATER UTILITIES, INC. (PCW No. 2 of 2)
Case ID No. 65399
Reg. Ent. Reference No. RN101265213
Media Water Rights
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)	\$360	26-Apr-2022	1-Feb-2024	1.77	\$32	n/a	\$32

Notes for DELAYED costs

The delayed cost includes the estimated amount to draft and adopt a drought contingency plan, calculated from the date of the investigation initially documenting the violation 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

\$360

TOTAL

\$32



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: 8615 TEXAS HIGHWAY 16 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: August 07, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 07, 2019 to August 07, 2024

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

Name: Kaisie Hubschmitt

Phone: (512) 239-1482

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.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 2 February 02, 2021 (1700869)

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: 09/07/2023 (1936854)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(i)(4)
 5A THSC Chapter 341, SubChapter A 341.031(a)
 Description: SWTR Acute TT Violation 07/2023 – 3 day(s) with combined filter effluent
 turbidity readings above 1.0 NTU at SH 16 1 MI SW OF BRAZOS RIVER
 BRIDGE (TP18486). ETT Point Value = 10; Violation Determination Date =
 07/31/2023
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(B)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: SWTR Non-acute TT Violation 07/2023 – 55.9 % of combined filter effluent
 turbidity readings for the month were above 0.3 NTU at SH 16 1 MI SW OF
 BRAZOS RIVER BRIDGE (TP18486). ETT Point Value = 5; Violation
 Determination Date = 07/31/2023
- 2 Date: 09/13/2023 (1930808)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TTHM LRAA MCL 3Q2023 – During the 3rd quarter of 2023 the system
 violated the maximum contaminant level for trihalomethanes with a LRAA of
 0.104 mg/L at 160 Cliff DR, Graford (DBP2-01). ETT Point Value = 5
- 3 Date: 09/28/2023 (1936854)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)(3)(B)
 Description: SWTR Non-acute TT Violation 07/2023 – Failure to meet the minimum
 requirements of cryptosporidium removal in the month of 07/2023 at SH 16 1
 MI SW OF BRAZOS RIVER BRIDGE (TP18486). ETT Point Value = 5; Violation
 Determination Date = 07/13/2023
- 4 Date: 12/08/2023 (1929719)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(r)
 Description: Failure to maintain a minimum pressure of 35 psi throughout the distribution
 system under normal operating conditions.
 EIC C4 MOD(2)(G)
 Self Report? NO Classification: Moderate
 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)
- 5 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

Component Appendices

Appendix A

All NOV's Issued During Component Period 8/7/2019 and 8/7/2024

1	Date:	08/07/2019	(1575732)
	Self Report?	NO	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 330, SubChapter A 330.15(a) 30 TAC Chapter 330, SubChapter A 330.15(c)	
	Description:	Failure to prevent an unauthorized discharge of municipal solid waste.	
2	Date:	08/15/2019	(1581511)
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.44(a)(4)	
	Description:	Failure to install water transmission and distribution lines adequately.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)	
	Description:	Failure to use an appropriately licensed operator. EIC B6 MOD(2)(C)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(I)	
	Description:	Failure to record the amount of chemical used each day. EIC B3 MOD(2)(B)	
	Self Report?	NO	Classification: Minor
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(1)(B)	
	Description:	Failure to monitor and record the disinfectant residual of the water at the entry point to the distribution system. EIC C1 MIN(3)(A)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(4)(C)	
	Description:	Failure to monitor and record the disinfectant residual at representative locations in the distribution system at least once per day. EIC B1 MOD(2)(A)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)	
	Description:	Failure to properly calibrate the turbidimeters. EIC B1 MOD(2)(A)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv)	
	Description:	Failure to maintain a record of flow meter calibrations. EIC B3 MOD(2)(B)	
	Self Report?	NO	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)	
	Description:	Failure to receive authorization prior to a discharge of industrial waste. EIC B13 MOD(2)(D)	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(m)	
	Description:	Failure to secure the water treatment plant. EIC B14 MOD(2)(G)	

3	Date:	09/12/2019	(1590718)	
	Self Report?	NO	Classification:	Minor
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(r)		

Description: Failure to maintain a minimum pressure of 35 pounds per square inch (psi) throughout the distribution system.
EIC C4 MIN(3)(C)

4 Date: 10/18/2019 (1590319)

Self Report? NO

Classification: Minor

Citation:

30 TAC Chapter 335, SubChapter C 335.62
30 TAC Chapter 335, SubChapter R 335.504
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.11

Description: Failure to adequately conduct a hazardous waste determination.

5 Date: 03/17/2020 (1623894)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.44(e)(3)
30 TAC Chapter 290, SubChapter D 290.44(h)(1)

Description: Failure to prevent a cross-connection between a potable water supply line and a sewer line.

EIC B17 MOD(2)(G)

6 Date: 07/05/2022 (1818965)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(i)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iv)

Description: Failure to calibrate the online and benchtop turbidimeters.

EIC B1 MOD(2)(E)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(ii)

Description: Failure to calibrate the benchtop pH meter once per day and verify against one standard each time a sample is run.

EIC B1 MOD(2)(E)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failure to verify the accuracy of the SL1000 at least once every 90 days.

EIC B1 MOD(2)(E)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.39(j)

Description: Failure to notify the executive director prior to making any significant changes to the system's treatment facilities.

EIC B18(c)(2) MOD(2)(B)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.42(d)(15)(C)
30 TAC Chapter 290, SubChapter D 290.42(d)(15)(C)(vi)

Description: Failure to provide jar testing equipment.

EIC C4 MOD(2)(A)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(I)

Description: Failure to maintain a daily record of the amount of chemicals used.

EIC B3 MOD(2)(B)

Self Report? NO

Classification: Moderate

Citation:

30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(I)

Description: Failure to provide secondary containment for liquid chemicals.

EIC C4 MOD(2)(G)		
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(f)(1)(B)	
Description:	Failure to provide a day tank for the sodium hypochlorite or adequate process control instrumentation and procedures to prevent chemical overfeed incidents. EIC C4 MOD(2)(G)	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(5)	
Description:	Failure to have a backwash meter. EIC C4 MOD(2)(G)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(l)	
Description:	Failure to flush all dead-end mains on a monthly basis. EIC C4 MIN(3)(D)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.109(d)(1)(A)	
Description:	Failure to collect bacteriological samples from representative locations throughout the distribution system. EIC C1 MIN(3)(A)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.110(c)(4)(C)	
Description:	Failure to monitor for the disinfectant residual at representative locations throughout the distribution system. EIC C1 MIN(3)(A)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m) 30 TAC Chapter 290, SubChapter D 290.46(m)(4)	
Description:	Failure to maintain the 0.1 MG ground storage tank in a good working condition. EIC C4 MIN(3)(D)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(3)	
Description:	Failure to provide either a duckbill valve, a gravity-hinged and weighted cover, or another approved device to prevent the entrance of insects and other nuisances on the 0.075 MG ground storage tank located directly behind the SWTP building. EIC C4 MIN(3)(D)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.42(d)(16) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C) 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(C)(iv)	
Description:	Failure to provide a computer and software that can record performance data and maintain records. EIC B3 MIN(3)(D)	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(e)(6)(C)	
Description:	Failure to either have a class "C" surface water operator onsite while the plant is in operation or provide continuous disinfectant residual monitoring and automatic plant shutdowns and alarms to summon operators so as to ensure the water produced continues to meet the commission's drinking water standards. EIC B17 MOD(2)(G)	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)	
Description:	Failure to maintain the pressure filters in a watertight condition. EIC C4 MIN(3)(D)	
Self Report?	NO	Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to maintain one of the RO feed pumps in a good working condition.
 EIC C4 MIN(3)(D)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(g)(2)
 30 TAC Chapter 290, SubChapter D 290.42(g)(2)(B)
 Description: Failure to have an exception to the rule to use the Harmsco HC/170-LT2
 cartridge filters.
 EIC B3 MOD(2)(B)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)
 Description: Failure to properly label chemical feed lines.
 EIC C4 MIN(3)(D)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(A)
 Description: Failure to have at least one class "B" or higher surface water operator that is
 at the plant at least four consecutive hours at least once every 14 days.
 EIC C4 MOD(2)(G)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 Description: Failure to submit requested documentation for review.
 EIC B3 MOD(2)(B)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)
 Description: Failure to install water transmission and distribution lines adequately.
 EIC B17 MOD(2)(G)

7* Date: 05/19/2023 (1930808)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TTHM LRAA MCL 1Q2023 – During the 1st quarter of 2023 the system violated
 the maximum contaminant level for trihalomethanes with a LRAA of 0.082
 mg/L at 160 Cliff DR, Graford (DBP2-01). ETT Point Value = 5

8* Date: 07/14/2023 (1930808)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: TTHM LRAA MCL 2Q2023 – During the 2nd quarter of 2023 the system
 violated the maximum contaminant level for trihalomethanes with a LRAA of
 0.108 mg/L at 160 Cliff DR, Graford (DBP2-01). ETT Point Value = 5

9 Date: 09/07/2023 (1936854)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(i)(4)
 5A THSC Chapter 341, SubChapter A 341.031(a)
 Description: SWTR Acute TT Violation 07/2023 – 3 day(s) with combined filter effluent
 turbidity readings above 1.0 NTU at SH 16 1 MI SW OF BRAZOS RIVER
 BRIDGE (TP18486). ETT Point Value = 10; Violation Determination Date =
 07/31/2023
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)(B)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: SWTR Non-acute TT Violation 07/2023 – 55.9 % of combined filter effluent

- | | | | | | |
|----|--------------|---|-----------|-----------------|----------|
| 10 | Date: | 09/13/2023 | (1930808) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
5A THSC Chapter 341, SubChapter A 341.0315(c) | | | |
| | Description: | TTHM LRAA MCL 3Q2023 – During the 3rd quarter of 2023 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.104 mg/L at 160 Cliff DR, Graford (DBP2-01). ETT Point Value = 5 | | | |
| 11 | Date: | 09/28/2023 | (1936854) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter F 290.111(c)(3)(B) | | | |
| | Description: | SWTR Non-acute TT Violation 07/2023 – Failure to meet the minimum requirements of cryptosporidium removal in the month of 07/2023 at SH 16 1 MI SW OF BRAZOS RIVER BRIDGE (TP18486). ETT Point Value = 5; Violation Determination Date = 07/13/2023 | | | |
| 12 | Date: | 12/08/2023 | (1929719) | | |
| | Self Report? | NO | | Classification: | Moderate |
| | Citation: | 30 TAC Chapter 290, SubChapter D 290.46(r) | | | |
| | Description: | Failure to maintain a minimum pressure of 35 psi throughout the distribution system under normal operating conditions.
EIC C4 MOD(2)(G) | | | |
| | Self Report? | NO | | Classification: | Moderate |
| | 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) | | | |
| 13 | 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) | | | |

* NOV's applicable for the Compliance History rating period 9/1/2018 to 8/31/2023

Appendix B

All Investigations Conducted During Component Period August 07, 2019 and August 07, 2024

Item 1	October 18, 2019**	(1590319)
Item 2	February 06, 2020**	(1625226)
Item 3*	February 02, 2021**	(1700869)
Item 4	June 24, 2022**	(1818965)
Item 5	November 22, 2022**	(1860414)
Item 6	December 06, 2022**	(1861920)
Item 7	September 27, 2023	(1930808)
Item 8	September 29, 2023	(1930980)
Item 9	October 19, 2023	(1936854)
Item 10	October 27, 2023	(1936926)

Item 11	January 16, 2024	(1955227)
Item 12	February 01, 2024	(1956507)
Item 13	June 05, 2024	(1989167)

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2018 and 08/31/2023.

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. 2024-0215-MLM-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MIDWAY WATER UTILITIES, INC. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 11. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 8615 Texas Highway 16 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). The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to state water as defined in TEX. WATER CODE § 11.021 and 30 TEX. ADMIN. CODE § 297.1(52).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002 and 11.0842 and TEX. HEALTH & SAFETY CODE § 341.049, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE §§ 5.013 and 11.0842 and TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 11, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$18,199 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$14,560 of the penalty and \$3,639 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN.

CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility by February 1, 2024:
 - a. Began collecting routine distribution coliform samples at a customer's premise, dedicated sampling station, or other designated compliance sampling location at active service connections which are representative of water quality throughout the distribution system;
 - b. Began monitoring the disinfectant residual at representative locations throughout the distribution system at least once per day;
 - c. Made the results of inspections for all water storage and pressure maintenance facilities and Customer Service Inspection reports readily available for review by the Executive Director;
 - d. Adopted an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted;
 - e. Adopted a drought contingency plan which includes all elements for municipal use by a retail public water supplier; and
 - f. Compiled and maintained a thorough and up-to-date plant operations manual for operator review and reference.

II. ALLEGATIONS

During a record review for the Facility conducted on January 29, 2024, an investigator documented that the Respondent:

1. Failed to calibrate the Facility's benchtop turbidimeter with primary standards at least once every 90 days and check the calibration with secondary standards each time a series of samples is tested, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(i) and (s)(2)(B)(ii).

2. Failed to calibrate the Facility's two on-line turbidimeters with primary standards at least once every 90 days and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(2)(B)(iii) and (s)(2)(B)(iv).
3. Failed to notify the Executive Director prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities, in violation of 30 TEX. ADMIN. CODE § 290.39(j) and TEX. HEALTH & SAFETY CODE § 341.0351. Specifically, the Respondent did not notify the Executive Director prior to utilizing polymer ahead of the pressure filters, adding two 30-micron cartridge filters after the pressure filters, and changing the two 5-micron cartridge filters before the reverse osmosis units to one 1-micron cartridge filter.
4. Failed to flush all dead-end mains at monthly intervals, in violation of 30 TEX. ADMIN. CODE § 290.46(l). Specifically, the Respondent was flushing at hydrants near the dead ends instead of at all dead-end mains.
5. Failed to collect routine distribution coliform samples at a customer's premise, dedicated sampling station, or other designated compliance sampling location at active service connections which are representative of water quality throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.109(d)(1)(A). Specifically, the sampling locations were not equally distributed throughout the distribution system as there were no bacteriological sampling locations on the southern part of the sampling map.
6. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(C). Specifically, the monitoring locations were not equally distributed throughout the distribution system as there were no disinfectant monitoring locations on the southern part of the sampling map.
7. Failed to maintain water works operation and maintenance records and make them readily available for review by the Executive Director upon request, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2), (f)(3)(C)(iv), (f)(3)(D)(ii), (f)(3)(D)(iii), and (f)(3)(E)(iv). Specifically, the on-line turbidity monitoring results and exception reports for individual filters, the results of inspections for all water storage and pressure maintenance facilities, the results of inspections for all pressure filters, and the previous one and a half years of Customer Service Inspection reports were not maintained on-site for review.
8. Failed to ensure that the Facility has at least one Class "C" or higher surface water operator on duty when it is in operation or that the Facility is provided with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the Facility is not staffed, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(6)(C). Specifically, the plant does not automatically shutdown if an alarm is triggered and there are no operators on-site overnight.

9. Failed to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in a watertight condition and free of excessive solids, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4). Specifically, five of the six pressure filters were leaking from their effluent lines.
10. Failed to adopt an adequate plumbing ordinance, regulations, or service agreement with provisions for proper enforcement to ensure that neither cross-connections nor other unacceptable plumbing practices are permitted, in violation of 30 TEX. ADMIN. CODE § 290.46(i).
11. Failed to install water transmission and distribution lines below the frost line and in no case less than 24 inches below the ground surface, in violation of 30 TEX. ADMIN. CODE § 290.44(a)(4). Specifically, the raw water transmission line and distribution line leaving the plant were sitting above ground.
12. Failed to compile and maintain a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
13. Failed to have all backflow prevention assemblies ("BPAs") tested upon installation and on an annual basis by a recognized backflow assembly tester and certified that they are operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4). Specifically, BPAs at the restaurant, the marina, the marina ice machine, and the wastewater treatment plant were not being tested on an annual basis.
14. Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B), and TEX. WATER CODE § 11.1272(c).

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MIDWAY WATER UTILITIES, INC., Docket No. 2024-0215-MLM-E" to:

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

2. The Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order:
 - i. Compile and maintain properly completed water works operation and maintenance records, including but not limited to, the results of pressure filter inspections and on-line turbidity monitoring results and exception reports for individual filters, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - ii. Calibrate the benchtop turbidimeter with primary standards and check the calibration with secondary standards each time a series of samples is tested, in accordance with 30 TEX. ADMIN. CODE § 290.46. This provision will be satisfied upon one month of compliant monitoring.
 - iii. Calibrate the two on-line turbidimeters with primary standards and check the calibration with a primary standard, secondary standard, or manufacturer's proprietary calibration confirmation device or by comparing the results from the on-line unit with the results from a properly calibrated benchtop unit at least once every week, in accordance with 30 TEX. ADMIN. CODE § 290.46. This provision will be satisfied upon one month of compliant monitoring.
 - iv. Begin flushing all dead-end mains at monthly intervals or more often as needed if water quality complaints are received from water customers or if disinfectant residuals fall below acceptable levels, in accordance with 30 TEX. ADMIN. CODE § 290.46. This provision will be satisfied upon three months of consecutive compliant monthly flushing.
- b. Within 45 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i.
- c. Within 60 days after the effective date of this Order:
 - i. Repair the automatic plant shutdown and alarms at the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - ii. Begin maintaining all distribution system lines, storage and pressure maintenance facilities, water treatment units and all related appurtenances in a watertight condition, including but not limited to the five pressure filters that were leaking from their effluent lines, in accordance with 30 TEX. ADMIN. CODE § 290.46.
 - iii. Ensure that all BPAs are tested upon installation and on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, including but not limited to the BPAs at the restaurant, the marina, the marina ice machine, and the wastewater treatment plant, in accordance with 30 TEX. ADMIN. CODE § 290.44.
- d. Within 75 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.k below, and include detailed supporting documentation including photographs, receipts, and/or other

records to demonstrate compliance with Ordering Provision Nos. 2.a.ii, 2.a.iii, and 2.c.i through 2.c.iii.

- e. Within 90 days after the effective date of this Order, ensure that all water transmission and distribution lines are located below the frost line and in no case less than 24 inches below the ground surface, in accordance with 30 TEX. ADMIN. CODE § 290.44.
- f. Within 105 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e.
- g. Within 135 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.iv.
- h. Within 180 days after the effective date of this Order, submit accurate, up-to-date, and detailed as-built plans, specifications, and engineering reports for the significant changes made to the Facility's production and treatment, including but not limited to utilizing polymer ahead of the pressure filters, adding two 30-micron cartridge filters after the pressure filters, and changing the two 5-micron cartridge filters before the reverse osmosis units to one 1-micron cartridge filter, in accordance with 30 TEX. ADMIN. CODE § 290.39. The plans, specifications, and reports shall be submitted to:

Plan Review Team
Water Supply Division, MC 159
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning plans and specifications within 15 days after the date of such requests, or by any other deadline specified in writing.

- i. Within 195 days after the effective date of this Order, submit written certification, as described in Ordering Provision No. 2.k below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.h.
- j. Within 270 days after the effective date of this Order, obtain approval of the as-built plans and specifications for the significant changes made to the Facility from the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.39.
- k. Within 285 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.j. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. 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.
7. 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.

8. 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

11/20/2024

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 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.

9-30-2024

President

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

2150 Town Square Place
Suite 400
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.