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Filing Date - 2023-08-07 02:23:38 PM

Control Number - 54617

Item Number - 41

DOCKET NO. 54617

APPLICATION OF TEXAS WATER UTILITIES, LP AND SOUTHERN HORIZONS DEVELOPMENT, INC. FOR SALE, TRANSFER, OR MERGER OF FACILITIES AND CERTIFICATE RIGHTS IN LIBERTY AND MONTGOMERY COUNTIES	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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**JOINT MOTION TO ADMIT EVIDENCE AND
PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED**

Texas Water Utilities, L.P. (TWU) on behalf of itself and Southern Horizons Development, Inc. (Southern Horizons) (collectively Applicants) and the Staff (Staff) of the Public Utility Commission of Texas (Commission) (collectively, Movants) files this Motion to Admit Evidence and Proposed Order Approving Sale and Transfer to Proceed. The Office of Public Utility Counsel is unopposed to this filing. Intervenors Jeffrey Berry, Cecil Fairfax, Collin Jones, Anna Miller, and Gerald Stover have indicated to TWU that they are opposed to this motion and proposed order. Pursuant to Order No. 9 filed on June 22, 2023, this pleading is timely filed by August 7, 2023.

I. JOINT MOTION TO ADMIT EVIDENCE

Movants request the admission of the following evidence into the record of this proceeding:

- a. The application of Southern Horizons and TWU, and confidential attachments, filed on February 2, 2023 (Interchange Item Nos. 1 and 2);
- b. The supplements to the application, filed on February 16, 2023, March 15, 2023, and June 23, 2023 (Interchange Item Nos. 5, 8, 9, and 37);
- c. Commission Staff's Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on April 5, 2023 (Interchange Item No. 13);
- d. TWU's Response to Commission Staff's First Request for Information, filed on April 17, 2023 (Interchange Item No. 17);
- e. TWU's proof of notice, filed on April 26, 2023, April 27, 2023, and May 9, 2023 (Interchange Item Nos. 18, 19 and 26);

- f. Commission Staff's Recommendation on the Sufficiency of Notice and Proposed Procedural Schedule, filed on May 22, 2023 (Interchange Item No. 30);
- g. TWU's supplemental proof of notice, filed on June 7, 2023 (Interchange Item No. 34);
- h. Commission Staff's Recommendation on Supplemental Notice, filed on June 21, 2023 (Interchange Item No. 35);
- i. Commission Staff's Recommendation on Approval of the Transaction, filed on July 17, 2023 (Interchange Item Nos. 38 and 39);
- j. Copies of Agreed Orders resolving Texas Commission on Environmental Quality (TECQ) enforcement actions opened against TWU in the past five years, provided as Attachment 1 to this motion to admit evidence;¹ and
- k. A letter from TCEQ to Southern Horizons confirming the resolution of all alleged violations noted during the May 27, 2022 compliance investigation for Southern Horizons, provided as Attachment 2 to this motion to admit evidence.²

II. PROPOSED ORDER

The Proposed Order Approving Sale and Transfer to Proceed—provided as Attachment 3 to this motion to admit evidence—would grant Applicants' application for the sale, transfer, or merger of facilities and certificate rights in Liberty and Montgomery Counties.

III. CONCLUSION

Movants respectfully request that the Commission grant the Joint Motion to Admit Evidence and adopt the attached Proposed Order Approving Sale and Transfer to Proceed.

¹ These Agreed Orders are provided to supplement Attachment 10 filed with the application and to support finding of fact 21 in the attached Joint Proposed Order Approving Sale and Transfer to Proceed.

² This letter is provided to supplement Attachment 11 filed with the application and to support finding of fact 26 in the attached Joint Proposed Order Approving Sale and Transfer to Proceed.

Respectfully submitted,

SPENCER FANE, LLP
816 Congress Avenue
Suite 1200
Austin, TX 78701
Telephone: (512) 840-4550
Facsimile: (512) 840-4551

William A. Faulk, III
State Bar No. 24075674
cfaulk@spencerfane.com

/s/ Eleanor D'Ambrosio

Eleanor D'Ambrosio
State Bar No. 24097559
edambrosio@spencerfane.com
Taylor P. Denison
State Bar No. 24116344
tdenison@spencerfane.com

**ATTORNEYS FOR TEXAS WATER
UTILITIES, L.P.**

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Marisa Lopez Wagley
Division Director

John Harrison
Senior Managing Attorney

/s/ Margaux Fox

Margaux Fox
State Bar No. 24120829
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326
(512) 936-7021
(512) 936-7268 (facsimile)
Margaux.Fox@puc.texas.gov

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on August 7, 2023, in accordance with the Second Order Suspending Rules, filed in Project No. 50664.

/s/ Eleanor D' Ambrosio

Eleanor D' Ambrosio

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MONARCH UTILITIES I, L.P.
RN102318532

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2020-1182-PWS-E

I. JURISDICTION AND STIPULATIONS

On JUN 29 2021, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Monarch Utilities I, L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a public water supply located at 31 Governors Wood Drive in Point Blank, San Jacinto County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 157 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(71).
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 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 TEX. HEALTH & SAFETY CODE § 341.031 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 341 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 \$150 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$120 of the penalty and \$30 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.

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5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review conducted on August 3, 2020, an investigator documented that the Respondent 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, a 5,000-gallon pressure tank was replaced with two 62-gallon bladder tanks without approval.

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: Monarch Utilities I, L.P., Docket No. 2020-1182-PWS-E" to:

Monarch Utilities I, L.P.
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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 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 the addition of two 62-gallon bladder tanks, 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.

- b. Within 195 days after the effective date of this Order, submit written certification as described in Order Provision No. 2.d below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Order Provision No. 2.a.
- c. 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.
- d. 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.c. 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."

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The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

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 Order Compliance Team 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,

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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.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

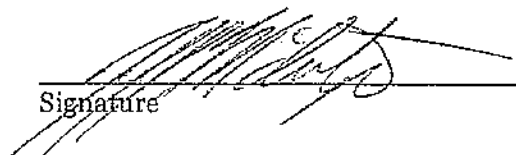
For the Commission	Date
	6/29/2021
For the Executive Director	Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

	February 11, 2021
Signature	Date
Jeffrey L. McIntyre	President
Name (Printed or typed)	Title
Authorized Representative of Monarch Utilities I, L.P.	

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

Jeffrey L. McIntyre, President
Monarch Utilities I L.P.
12535 Reed Road
Sugar Land, Texas 77478

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.

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 2, 2021

Mr. Charles W. Profilet, Jr., President
Monarch Utilities I, L.P.
12535 Reed Road
Sugar Land, Texas 77478

Re: TCEQ Enforcement Action
Monarch Utilities I, L.P.
Docket No. 2020-1182-PWS-E

Dear Mr. Profilet, Jr.:

Enclosed for your records is a fully-executed copy of the Agreed Order for the above-referenced matter.

Please review the enclosed Agreed Order, particularly the "Ordering Provisions" section, to determine if further action will be required of you, such as the completion of technical requirements to achieve compliance. When technical requirements are listed (usually Ordering Provision No. 2 or 3), a deadline will be provided based on a specific number of days after the effective date. The effective date is as stated in the enclosed Agreed Order.

Should you have any questions, please contact Samantha Duncan, the Enforcement Coordinator assigned to this matter, at (512) 239-2511.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Parrish".

Michael Parrish
Enforcement Division

Enclosure

cc: Samantha Duncan, Enforcement Division
Water Section Manager, Region 10

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 29, 2022

Mr. Jeffrey McIntyre, President
Texas Water Services Group, LLC, General Partner
Texas Water Utilities, L.P.
12535 Reed Road
Sugar Land, Texas 77478

Re: Proposed Agreed Order
Texas Water Utilities, L.P.
RN101255818; Public Water Supply ID No. 1580063
Docket No. 2022-0888-PWS-E; Enforcement Case No. 62648
FOR SETTLEMENT PURPOSES ONLY

Dear Mr. McIntyre:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against Texas Water Utilities, L.P. for violations of the Texas Health & Safety Code and Commission Rules. These violations were discovered during a record review conducted on June 20, 2022 through July 8, 2022, and documented in a letter dated July 8, 2022, from the TCEQ Drinking Water Special Functions Section.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of \$3,375, identifies the violations that we are addressing, and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for approval by the Commission. We believe that handling this matter expeditiously could save Texas Water Utilities, L.P. and the TCEQ a significant amount of time, as well as the expense associated with litigation.

Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing Texas Water Utilities, L.P., Docket No. 2022-0888-PWS-E) to:

Mr. Jeffrey McIntyre
August 29, 2022
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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

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. In order to qualify for financial inability to pay, the penalty must exceed \$3,600 and be greater than 1% of annual gross revenues. If this is the case, please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing an SEP, you must agree to the penalty amount and submit an SEP proposal within 30 days of receipt of this proposed order.**

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <https://www.tceq.texas.gov/compliance/enforcement/sep> or contact the Enforcement Coordinator listed below.

Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

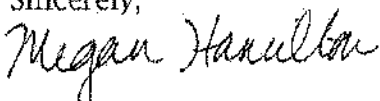
If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 Tex. Admin. Code ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer will no longer be available. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you

Mr. Jeffrey McIntyre
August 29, 2022
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would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

For any questions or comments about this matter or to arrange a meeting, please contact Mr. Nick Lohret of my staff at (512) 239-4495 or nick.lohret@tceq.texas.gov.

Sincerely,



Megan Hamilton, Manager
Enforcement Division
Texas Commission on Environmental Quality

MH/nl

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheet,
Site Compliance History

cc: Mr. Chuck Barry, EHS Manager, Texas Water Utilities, L.P., 1620 Grand Avenue
Parkway Suite 140, Pflugerville, Texas 78660, tbarry@swwc.com

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS WATER UTILITIES, L.P.
RN101255818

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

AGREED ORDER
DOCKET NO. 2022-0888-PWS-E

On APR 12 2023, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Water Utilities, L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located approximately 500 feet east of the intersection of Dogwood Trail and Mims Chapel Road near Avinger, Marion County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 95 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(71).
2. During a record review for the Facility conducted on June 20, 2022 through July 8, 2022, an investigator documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts at Site 1 were 0.101 milligrams per liter ("mg/L") for the fourth quarter of 2021, 0.129 mg/L for the first quarter of 2022, and 0.129 mg/L for the second quarter of 2022.

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II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$3,375 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$3,375 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Water Utilities, L.P., Docket No. 2022-0888-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Order, return to compliance with the MCL for TTHM, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
 - b. Within 380 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.a. The certification shall be signed by the Respondent and shall include the following certification language:

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"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:

Drinking Water Special Functions Section Manager
Water Supply Division, MS 155
Texas Commission on Environmental Quality
P.O. 13087
Austin, Texas 78711-3087

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 Order Compliance Team at the address listed above.
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 in this Order.
7. 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.
8. 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

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jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. 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.
10. 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.

Texas Water Utilities, L.P.
DOCKET NO. 2022-0888-PWS-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



For the Commission

4/17/23

Date



For the Executive Director

2/24/2023


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

October 19, 2022

Date

Jeffrey L. McIntyre

Name (Printed or typed)
Authorized Representative of
Texas Water Utilities, L.P.

President

Title

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

April 19, 2023

FIRST CLASS MAIL

Jeffrey L. McIntyre, President
Chuck Barry, Environmental Health and Safety Manager
Texas Water Utilities, L.P.
1620 Grand Avenue Parkway, Suite 140
Pflugerville, Texas 78660

RE: Texas Water Utilities, L.P.
TCEQ Docket No. 2022-0888-PWS-E; Registration No. 1580063
Agreed Order Assessing Administrative Penalties and Requiring Certain Actions

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Amy Davis of the Office of the Chief Clerk at (512) 239-3300.

Sincerely,


A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/ad

Enclosure

cc: Nick Lohret, Enforcement Coordinator, TCEQ Enforcement Division

	Penalty Calculation Worksheet (PCW)			
	<small>Policy Revision 5 (January 28, 2021)</small>		<small>PCW Revision February 11, 2021</small>	
DATES	Assigned	PCW	Screening	EPA Due
	11-Jul-2022	19-Jul-2022	18-Jul-2022	30-Sep-2022

RESPONDENT/FACILITY INFORMATION			
Respondent	Texas Water Utilities, L.P.		
Reg. Ent. Ref. No.	RN101255818		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	62648	No. of Violations	1
Docket No.	2022-0888-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nick Lohret
		EC's Team	Enforcement Team 8
Admin. Penalty \$	Limit Minimum	\$50	Maximum
			\$5,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$2,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
Compliance History	35.0% Adjustment	Subtotals 2, 3, & 7	\$875
Notes	Enhancement for three NOVs with the same/similar violations and one agreed order containing a denial of liability.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
	<small>Total EB Amounts \$713 Estimated Cost of Compliance \$5,000</small>		<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7		Final Subtotal	\$3,375
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Notes			
		Final Penalty Amount	\$3,375
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$3,375
DEFERRAL	0.0% Reduction	Adjustment	\$0
Notes	No deferral is recommended for Findings Orders.		
PAYABLE PENALTY			\$3,375

Screening Date 18-Jul-2022 **Docket No.** 2022-0888-PWS-E
Respondent Texas Water Utilities, L.P.
Case ID No. 62648
Reg. Ent. Reference No. RN101255818
Media Public Water Supply
Enf. Coordinator Nick Lohret

PCW
 Policy Revision 5 (January 28, 2021)
 PCW Revision February 11, 2021

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>)	3	15%
	Other written NOVs	0	0%
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) 35%

>> **Repeat Violator (Subtotal 3)**

N/A

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 three NOVs with the same/similar violations and one agreed order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 35%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 35%

Screening Date 18-Jul-2022	Docket No. 2022-0888-PWS-E	PCW														
Respondent Texas Water Utilities, L.P.		Policy Revision 5 (January 28, 2021)														
Case ID No. 62648		PCW Revision February 11, 2021														
Reg. Ent. Reference No. RN101255818																
Media Public Water Supply																
Enf. Coordinator Nick Lohret																
Violation Number 1																
Rule Cite(s)	30 Tex. Adm'n. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)															
Violation Description	Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts at Site 1 were 0.101 mg/L for the fourth quarter of 2021, 0.129 mg/L for the first quarter of 2022, and 0.129 mg/L for the second quarter of 2022.															
	Base Penalty	\$5,000														
>> Environmental, Property and Human Health Matrix																
OR	Release	Harm														
		Major Moderate Minor														
Actual		x														
Potential																
		Percent 50.0%														
>> Programmatic Matrix																
	Falsification	Major Moderate Minor														
		Percent 0.0%														
Matrix Notes	Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.															
	Adjustment	\$2,500														
		\$2,500														
Violation Events																
Number of Violation Events	1	272														
		Number of violation days														
	<table border="1" style="font-size: small;"> <tr><td>daily</td><td></td></tr> <tr><td>weekly</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td style="text-align: center;">x</td></tr> <tr><td>at-discretion</td><td></td></tr> </table>	daily		weekly		monthly		quarterly		semiannual		annual	x	at-discretion		Violation Base Penalty
daily																
weekly																
monthly																
quarterly																
semiannual																
annual	x															
at-discretion																
		\$2,500														
One annual 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	\$2,500														
Economic Benefit (EB) for this violation																
Statutory Limit Test																
Estimated EB Amount	\$713	Violation Final Penalty Total														
		\$3,375														
	This violation Final Assessed Penalty (adjusted for limits)															
		\$3,375														

Economic Benefit Worksheet

Respondent Texas Water Utilities, L.P.
Case ID No. 62648
Reg. Ent. Reference No. RN101255818
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Dec-2021	14-Jan-2024	2.04	\$34	\$679	\$713
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs: The other (as needed) cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the first quarter of noncompliance 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

\$5,000

TOTAL

\$713

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN602740706, RN101255818, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator:	CN602740706, Texas Water Utilities, L.P.	Classification: SATISFACTORY	Rating: 2.03
Regulated Entity:	RN101255818, INDIAN HILLS HARBOR SUBDIVISION	Classification: NOT APPLICABLE	Rating: N/A
Complexity Points:	N/A	Repeat Violator:	N/A
CH Group:	14 - Other		
Location:	APPROXIMATELY 500 FEET EAST OF THE INTERSECTION OF DOGWOOD TRAIL AND MIMS CHAPEL ROAD NEAR AVINGER, MARION COUNTY, TEXAS		
TCEQ Region:	REGION 05 - TYLER		
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1580063		

Compliance History Period:	September 01, 2016 to August 31, 2021	Rating Year:	2021	Rating Date:	09/01/2021
Date Compliance History Report Prepared:	July 18, 2022				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	July 18, 2017 to July 18, 2022				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Nick Lohret	Phone:	(512) 239-2545		

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

- 1 Effective Date: 11/05/2019 ADMINORDER 2019-0429-PWS-E (1660 Order-Agreed Order With Denial)
 - Classification: Major
 - Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)(A)
5A THSC Chapter 341, SubChapter A 341.0351
 - Description: Failure to notify the Executive Director and receive approval prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance capacity. Specifically, the pressure tank was removed and two service pumps were replaced which resulted in a significant decrease in the facility's pressure tank capacity and service pump capacity without prior approval.
 - Classification: Major
 - Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)
5A THSC Chapter 341, SubChapter A 341.0315(c)
 - Description: Failure to provide an elevated storage capacity of 100 gallons per connection or a pressure tank capacity of 20 gallons per connection. Specifically, the Facility had 92 connections requiring an elevated storage capacity of 9,200 gallons or a pressure tank capacity of 1,840 gallons. However, the Facility did not have either an elevated storage capacity or pressure tank capacity, indicating a 100% deficiency.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	November 16, 2021	(1773688)
Item 2	April 04, 2022	(1797644)

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:	01/21/2022	(1825529)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.115(f)(1)		
Description:	TTHM LRAA MCL 4Q2021 - During the 4th quarter of 2021 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.101 mg/L at Eagle BLF 2 MI Off Jasmine, Avinger (DBP2-01). ETT Point Value = 5		

- 2

Date:	04/21/2022	(1825529)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.115(f)(1)		
Description:	TTHM LRAA MCL 1Q2022 - During the 1st quarter of 2022 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.157 mg/L at Eagle BLF 2 MI Off Jasmine, Avinger (DBP2-01). ETT Point Value = 5		

- 3

Date:	06/14/2022	(1825529)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.115(f)(1)		
Description:	TTHM LRAA MCL 2Q2022 - During the 2nd quarter of 2022 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.129 mg/L at Eagle BLF 2 MI Off Jasmine, Avinger (DBP2-01). ETT Point Value = 5		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MONARCH UTILITIES I L.P.
RN101450286

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2021-0550-PWS-E

On SEP 07 2022, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Monarch Utilities I L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 366 Ridgecrest Road near Pottsboro, Grayson County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 527 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(71).
2. During a record review conducted on March 15, 2021 through March 26, 2021, an investigator documented that the locational running annual average concentrations for haloacetic acids ("HAA5") for Stage 2 Disinfection Byproducts at Site 2 were 0.081 milligrams per liter ("mg/L") for the third quarter of 2020, 0.080 mg/L for the fourth quarter of 2020, and 0.083 mg/L for the first quarter of 2021.

Monarch Utilities I L.P.
DOCKET NO. 2021-0550-PWS-E
Page 2

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.060 mg/L for HAA5 based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$4,125 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$4,125 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Monarch Utilities I L.P., Docket No. 2021-0550-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Order, return to compliance with the MCL for HAA5, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
 - b. Within 380 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

Monarch Utilities I L.P.
DOCKET NO. 2021-0550-PWS-E
Page 3

Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Drinking Water Special Functions Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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 Order Compliance Team at the address listed above.
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 in this Order.


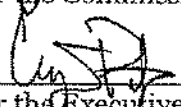
Monarch Utilities I L.P.
DOCKET NO. 2021-0550-PWS-E
Page 4

7. 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.
8. 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.
9. 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.
10. 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.

Monarch Utilities I L.P.
DOCKET NO. 2021-0550-PWS-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

 _____	<u>9/15/22</u> _____
For the Commission	Date
 _____	7/19/2022 _____
For the Executive Director	Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

 _____	June 13, 2022 _____
Signature	Date

Jeffrey L. McIntyre _____	President _____
Name (Printed or typed)	Title
Authorized Representative of Monarch Utilities I L.P.	

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

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

September 19, 2022

FIRST CLASS MAIL

Jeffrey L. McIntyre, President
Monarch Utilities I L.P.
12535 Reed Road
Sugar Land, Texas 77478

RE: Monarch Utilities I L.P.
TCEQ Docket No. 2021-0550-PWS-E; Registration No. 0910035
Agreed Order Assessing Administrative Penalties and Requiring Certain Actions

Enclosed is a copy of an order issued by the Commission.

Questions regarding the order should be directed to the Texas Commission on Environmental Quality's Enforcement Division at (512) 239-2545 or the Litigation Division at (512) 239-3400. If there are questions pertaining to the mailing of the order, then please contact Amy Davis of the Office of the Chief Clerk at (512) 239-3300.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Gharis".

Laurie Gharis
Chief Clerk

LG/ad

Enclosure

cc: Samantha Duncan, Enforcement Coordinator, TCEQ Enforcement Division

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Erin E. Chancellor, *Interim Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 28, 2023

Mr. Steven Sullivan
President
Southern Horizons Development, Inc.
Post Office Box 1076
Splendora, Texas 77372-1076

Via email

Re: Notice of Compliance with Notice of Violation (NOV) dated August 12, 2022;
Southern Oaks Water System Phase 2, 1211 County Road 3737, Splendora, Liberty
County, Texas
Regulated Entity No.: 102322567, TCEQ ID No.: 1460150, Investigation No.: 1895543

Dear Mr. Sullivan:

This letter is to inform you that the Texas Commission on Environmental Quality (TCEQ) Houston Region Office has received adequate compliance documentation on August 15, 2022, and September 6, 2022, to resolve the alleged violations documented during the investigation of the above-referenced regulated entity conducted on May 27, 2022. Based on the information submitted, no further action is required concerning this investigation.

The Texas Commission on Environmental Quality appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment. If you or members of your staff have any questions, please feel free to contact Mr. Dillon Johnston in the Houston Region Office at (713) 767-3530.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Batista".

Nichole Batista Nunes
Water Section Team Leader
Houston Region 12

NBN/DJ/es

cc: Ms. Jodie Hoang, Compliance Coordinator, Hydrotech Utilities
Post Office Box 279, Spring, Texas 77383-0279
Via email

Enclosure: Summary of Investigation Findings

Summary of Investigation Findings

SOUTHERN OAKS WATER SYSTEM PHASE 2

Investigation #

1895543

Investigation Date: 04/17/2023

, LIBERTY COUNTY,

Additional ID(s): 1460150

ALLEGED VIOLATION(S) NOTED AND RESOLVED

Track No: 777744**30 TAC Chapter 290.109(d)(1)(B)****Alleged Violation:**

Investigation: 1722920

Comment Date: 06/08/2021

Failure by Southern Horizons Development Inc.- Southern Oaks WS to obtain routine distribution coliform samples at locations specified in the system's monitoring plan.

During the investigation, it was noted that the water system did not obtain routine distribution coliform samples at locations specified in the system's Monitoring Plan. The coliform samples were taken at the following locations on the provided dates: January 6, 2020 at 517 Southern Oaks; February 3, 2020 at 15634 CR 3737; April 13, 2020 at 1220 CR 3737; May 4, 2020 at 20150 CR 3737; June 2, 2020 at 21617 CR 3737; July 1, 2020 at 19150 CR 331; September 1, 2020 at 644 Southern Oaks NW; and March 1, 2021 at 601 CR 3737. The Monitoring Plan coliform sample site locations are 1051 CR 3737, 429 CR 3737, 534 CR 3737, 603 CR 3737, and 501 CR 3737.

Investigation: 1817967

Comment Date: 08/11/2022

Failure by Southern Horizons Development Inc.- Southern Oaks WS to obtain routine distribution coliform samples at locations specified in the system's monitoring plan.

Investigation: 1895543

Comment Date: 04/27/2023

Failure by Southern Horizons Development Inc.- Southern Oaks WS to obtain routine distribution coliform samples at locations specified in the system's monitoring plan.

During the investigation, it was noted that the water system did not obtain routine distribution coliform samples at locations specified in the system's Monitoring Plan. The coliform samples were taken at the following locations on the provided dates: January 6, 2020, at 517 Southern Oaks; February 3, 2020, at 15634 CR 3737; April 13, 2020, at 1220 CR 3737; May 4, 2020, at 20150 CR 3737; June 2, 2020 at 21617 CR 3737; July 1, 2020 at 19150 CR 331; September 1, 2020 at 644 Southern Oaks NW; and March 1, 2021 at 601 CR 3737. The Monitoring Plan coliform sample site locations are 1051 CR 3737, 429 CR 3737, 534 CR 3737, 603 CR 3737, and 501 CR 3737.

Recommended Corrective Action: Begin obtaining routine distribution coliform samples from locations listed in the monitoring plan. Submit three months of routine distribution coliform samples with a list of the sample sites to the Beaumont Regional Office.

Resolution: This alleged violation was resolved on September 6, 2022, based on documentation received via email from Ms. Jodie Hoang by the TCEQ's Houston Region Office.

Track No: 821073**30 TAC Chapter 291.93(3)****Alleged Violation:**

Investigation: 1817967

Comment Date: 08/11/2022

Failure to provide a minimum a capacity of well capacity of 1.5 gallons per connection.

Failure, by a retail public utility that possesses a certificate of public convenience and

necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 T.A.C., to submit to the executive director a planning report that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area. A report is not required if the source of supply available to the utility service provider is reduced to below the 85% level due to a court or agency conservation order unless that order is expected to extend for more than 18 months from the date it is entered in which case a report shall be required.

After any commission field inspection, a retail public utility must analyze the system's capacity to determine if it has reached 85% of its capacity. If the retail public utility has reached 85% of its capacity, it must file this report no later than 90 days after the date of a commission letter detailing the results of the inspection. Capacity is considered to be the overall rated capacity in number of residential connection equivalents based on the most restrictive criteria for production, treatment, storage, or pumping.

(B) The report should be submitted in writing and should contain the following: (i) a brief description of the overall utility system and service area; (ii) an analysis of the plant capacity as defined in subparagraph

(A) of this paragraph; (iii) details on how the retail public utility will provide service to the remaining areas within the boundaries of its certificated area. This includes projections of cost and expected design and installation dates for additional facilities.

(C) The executive director may waive or limit the reporting requirements if the retail public utility demonstrates that the projected growth of the area will not require the retail public utility to exceed 100% of its current capacity for the next five years.

(D) Any retail public utility required to file reports under this section of the rules, including those requesting waivers, shall file updated reports within 90 days after the retail public utility receives a copy of each subsequent commission field inspection report until the system demand is below 85% capacity. Specifically, it is noted on this investigation that your well has reached 129 % of its capacity. This was based on 43 connections.

Investigation: 1895543

Comment Date: 04/27/2023

Failure to provide a minimum a capacity of well capacity of 1.5 gallons per connection.

Failure, by a retail public utility that possesses a certificate of public convenience and necessity that has reached 85% of its capacity as compared to the most restrictive criteria of the commission's minimum capacity requirements in Chapter 290 T.A.C., to submit to the executive director a planning report that clearly explains how the retail public utility will provide the expected service demands to the remaining areas within the boundaries of its certificated area. A report is not required if the source of supply available to the utility service provider is reduced to below the 85% level due to a court or agency conservation order unless that order is expected to extend for more than 18 months from the date it is entered in which case a report shall be required.

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(A) of this paragraph; (iii) details on how the retail public utility will provide service to the remaining areas within the boundaries of its certificated area. This includes projections of cost and expected design and installation dates for additional facilities.

(C) The executive director may waive or limit the reporting requirements if the retail public utility demonstrates that the projected growth of the area will not require the retail public utility

to exceed 100% of its current capacity for the next five years.

(D) Any retail public utility required to file reports under this section of the rules, including those requesting waivers, shall file updated reports within 90 days after the retail public utility receives a copy of each subsequent commission field inspection report until the system demand is below 85% capacity. Specifically, it is noted on this investigation that your well has reached 129 % of its capacity. This was based on 43 connections.

Recommended Corrective Action: Submit compliance documentation to the TCEQ Technical Review and Oversight Team or Plan Review and CC the TCEQ Houston Region Office demonstrating corrective measures have been taken to resolve the alleged violation.

Please be advised that public water systems shall notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, or distribution facilities. Public water systems shall submit plans and specifications for the proposed changes upon request to:

Plan and Technical Review Section
Water Supply Division MC -159
TCEQ
PO Box 13087
Austin, Texas 78711-3087
512-239-4691
PTRS@tceq.texas.gov

The water system may request an exception to this requirement by writing to:

Technical Review and Oversight Team
Plan and Technical Review Section, MC-159
Texas Commission on Environmental Quality
PO Box 13087
Austin, Texas 78711-3087
512-239-4691
PTRS@tceq.texas.gov

Resolution: This alleged violation was resolved on August 15, 2022, based on documentation received via email from Ms. Jodie Hoang by the TCEQ's Houston Region Office.

Track No: 821074

30 TAC Chapter 290.45(b)(1)(A)(i)

Alleged Violation:

Investigation: 1817967

Comment Date: 08/11/2022

Failure to provide a minimum a capacity of well capacity of 1.5 gallons per connection.

Failure to provide minimum well capacity of 1.5 gallons per minute per connection. At the time of the inspection the facility had a total of 43 connections and is required to provide 1.5 gallons per minute (gpm) per connection (conn). The well produced a total of 50 gpm and is short a total of 14.5 gpm. This is calculated in the following manner:

Required	1.5 gpm /conn X 43 conn. = 64.5 gpm Total
Short	64.5 gpm Required - 50 gpm Produced = 14.5 gpm Total

Please be advised that public water systems shall notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, or distribution facilities. Public water systems shall submit plans and specifications for the proposed changes upon request. The water system may request an exception to these requirements by writing to TCEQ, Water Supply Division, Public Drinking Water Section, Technical Review & Oversight, MC 159, P.O. Box

The water system must be modified to meet this requirement to assure an adequate supply of water at all times.

Investigation: 1895543

Comment Date: 04/27/2023

Failure to provide a minimum a capacity of well capacity of 1.5 gallons per connection.

Failure to provide a minimum a capacity of well capacity of 1.5 gallons per connection.

Failure to provide minimum well capacity of 1.5 gallons per minute per connection. At the time of the inspection the facility had a total of 43 connections and is required to provide 1.5 gallons per minute (gpm) per connection (conn). The well produced a total of 50 gpm and is short a total of 14.5 gpm. This is calculated in the following manner:

Required	1.5 gpm /conn X 43 conn. = 64.5 gpm Total
Short	64.5 gpm Required - 50 gpm Produced = 14.5 gpm Total

Please be advised that public water systems shall notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, or distribution facilities. Public water systems shall submit plans and specifications for the proposed changes upon request. The water system may request an exception to these requirements by writing to TCEQ, Water Supply Division, Public Drinking Water Section, Technical Review & Oversight, MC 159, P.O. Box

The water system must be modified to meet this requirement to assure an adequate supply of water at all times.

Recommended Corrective Action: Submit compliance documentation to the TCEQ Houston Region Office demonstrating corrective measures have been taken to resolve the alleged violation.

Please be advised that public water systems shall notify the executive director prior to making any significant change or addition to the system's production, treatment, storage, or distribution facilities. Public water systems shall submit plans and specifications for the proposed changes upon request to:

Plan and Technical Review Section
 Water Supply Division MC -159
 TCEQ
 PO Box 13087
 Austin, Texas 78711-3087
 512-239-4691
 PTRS@tceq.texas.gov

The water system may request an exception to this requirement by writing to:

Technical Review and Oversight Team
 Plan and Technical Review Section, MC-159
 Texas Commission on Environmental Quality
 PO Box 13087
 Austin, Texas 78711-3087
 512-239-4691
 PTRS@tceq.texas.gov

Resolution: This alleged violation was resolved on August 15, 2022, based on documentation received via email from Ms. Jodie Hoang by the TCEQ's Houston Region Office.

DOCKET NO. 54617

APPLICATION OF TEXAS WATER UTILITIES, LP AND SOUTHERN HORIZONS DEVELOPMENT, INC. FOR SALE, TRANSFER, OR MERGER- OF FACILITIES AND CERTIFICATE RIGHTS IN LIBERTY AND MONTGOMERY COUNTIES	§ § § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS
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PROPOSED ORDER APPROVING SALE AND TRANSFER TO PROCEED

This Order addresses the application of Southern Horizons Development, Inc. (Southern Horizons) and Texas Water Utilities, L.P. (TWU) for approval of the sale, transfer, or merger of facilities and certificate rights in Liberty and Montgomery Counties. The applicants seek approval to sell and transfer all of Southern Horizons’ facilities and 527 acres of its service area under water certificate of convenience and necessity (CCN) number 12863 to TWU, to decertify the remaining 98.7 acres under CCN number 12863, to cancel Southern Horizons’ water CCN, and to amend TWU’s water CCN number 12983 to include the facilities and 527 acres of certificated service area previously included in CCN number 12863 and an additional 102.5 acres of uncertificated area. The administrative law judge (ALJ) approves the transaction between TWU and Southern Horizons, and the transaction may be completed as proposed.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant

1. TWU is a limited partnership registered with the Texas secretary of state under file number 800034797.
2. TWU is an investor-owned utility that owns, operates, and controls facilities for providing water service under CCN number 12983.
3. Southern Horizons is a Texas corporation registered with the Texas secretary of state under filing number 144217300.
4. Southern Horizons is an investor-owned utility that owns, operates, and controls facilities for providing water service under CCN number 12863.

Application

5. On February 2, 2023, the applicants filed the application at issue in this proceeding.
6. The applicants supplemented the application on February 16, 2023, March 15, 2023, and June 23, 2023.
7. In the application, as supplemented, the applicants seek approval of the following: (a) to sell and transfer all of Southern Horizons' facilities and 527 acres of its service area under water CCN number 12863 to TWU; (b) to decertify the remaining 98.7 acres under Southern Horizons' CCN; (c) to cancel water CCN number 12863; and (d) to amend TWU's water CCN number 12983 to include the 527 acres previously included in Southern Horizons' CCN number 12863 and an additional 102.5 acres of uncertificated area.
8. The requested area includes approximately 728.2 acres and 452 current customers, which is comprised of: (a) 527 acres to be transferred from Southern Horizons' CCN number 12863; (b) 98.7 acres to be decertified from CCN number 12863; and (c) 102.5 acres of uncertificated area.
9. The requested area is located approximately 2.4 miles northeast of downtown Splendora, Texas, and is generally bounded on the north by County Road 377; on the east by County Road 3737 (0.1 mile east); on the south by County Road 373; and on the west by US Highway 59.
10. In Order No. 4 filed on April 5, 2023, the ALJ found the application, as supplemented, administratively complete.

Notice

11. On April 26, 2023, TWU filed the affidavit of Brian Bahr, the Director of Rates and Regulatory Affairs for TWU, attesting that notice was provided to all current customers, neighboring utilities, and affected parties on April 20, 2023.
12. On April 27, 2023, TWU filed a confidential list of the customers to whom notice was provided.

13. On May 9, 2023, TWU filed a publisher's affidavit attesting to the publication of notice in the *Houston Business Journal*, a newspaper of general circulation in Liberty and Montgomery Counties, on April 21 and 28, 2023.
14. On June 7, 2023, TWU filed the affidavit of Mr. Bahr attesting that there are no tracts of land greater than 25 acres located wholly or partially within the requested area.
15. In Order No. 9 filed on June 22, 2023, the ALJ found the notice sufficient.

Interventions

16. In Order No. 3 filed on March 27, 2023, the ALJ granted the intervention of the Office of Public Utility Counsel.
17. In Order No. 6 filed on May 16, 2023, the ALJ granted the interventions of Colin Jones, Cecil Fairfax, Jeffrey Berry, and Anna Miller.
18. In Order No. 8 filed on May 30, 2023, the ALJ granted the intervention of Gerald Stover.

Evidentiary Record

19. On August 7, 2023, TWU filed a joint motion to admit evidence and proposed order approving the sale and transfer to proceed on behalf of the parties to this proceeding.
20. In Order No. ___ filed on August __, 2023, the ALJ admitted the following evidence into the record of this proceeding: (a) the application of Southern Horizons and TWU, and confidential attachments, filed on February 2, 2023; (b) The supplements to the application, filed on February 16, 2023, March 15, 2023, and June 23, 2023; (c) Commission Staff's Recommendation on Administrative Completeness and Notice and Proposed Procedural Schedule, filed on April 5, 2023; (d) TWU's Response to Commission Staff's First Request for Information, filed on April 17, 2023; (e) TWU's proof of notice, filed on April 26, 2023, April 27, 2023, and May 9, 2023; (f) Commission Staff's Recommendation on the Sufficiency of Notice and Proposed Procedural Schedule, filed on May 22, 2023; (g) TWU's supplemental proof of notice, filed on June 7, 2023; (h) Commission Staff's Supplemental Recommendation on Supplemental Notice, filed on June 21, 2023; (i) Commission Staff's Recommendation on Approval of the Transaction, filed on July 17, 2023; (j) copies of Agreed Orders resolving Texas Commission on Environmental Quality (TCEQ) enforcement actions

opened against TWU in the past five years, filed on August 7, 2023; and (k) a letter from TCEQ to Southern Horizons confirming the resolution of all alleged violations noted during the May 27, 2022 compliance investigation for Southern Horizons, filed on August 7, 2023.

Purchaser's Compliance History

21. TWU has been subject to an enforcement action by the Commission, TCEQ, Texas Department of Health, the Office of the Attorney General, or the United States Environmental Protection Agency in the past five years for non-compliance with rules, orders, or state statutes. TWU has resolved, or is in the process of resolving, the compliance issues related to the open TCEQ enforcement actions listed in the application.
22. TWU does not have a history of continuing mismanagement or misuse of revenues as a utility service provider.
23. TWU has demonstrated a compliance history that is adequate for approval of the proposed transaction.

Adequacy of Existing Service

24. Southern Horizons owns and operates the Southern Crossing Water System Phase 2 public water system (PWS) registered with TCEQ under PWS identification number 1460158, and the Southern Oaks Water System registered with TCEQ under PWS identification number 1460150.
25. Southern Horizons' PWSes at issue in this proceeding are currently providing continuous and adequate service to the requested area.
26. The last TCEQ compliance investigation of Southern Horizons was on May 27, 2022. Southern Horizons does not have any unresolved violations listed in the TCEQ database. The Commission's complaint records, which date back five years, show four complaints against Southern Horizons, all of which have been closed.
27. There is no evidence in the record that Southern Horizons has failed to comply with any Commission or TCEQ order.

Need for Additional Service

28. There are approximately 452 existing water customers in the requested area that are currently receiving service from Southern Horizons and have an ongoing need for service.
29. This is an application to transfer only existing facilities and customers.
30. There is no evidence in the record indicating a need for additional service.
31. The addition of the uncertificated portion of the requested area to TWU's certificated area is needed to clean up the service area boundaries so they align with property boundaries and incorporate customers currently served by Southern Horizons.

Effect of Approving the Transaction and Granting the Amendment

32. Approving the transaction will obligate TWU to provide continuous and adequate water service to current and future customers in the requested area.
33. Southern Horizons and TWU are the only utilities affected by this sale and transfer.
34. All retail public utilities in the proximate area were provided notice of the application.
35. There will be no effect on any landowner in the requested area or retail public utility providing service in the proximate area.

Initial Rates

36. TWU as an entity is entitled to request approval to charge initial rates and service charges that are shown in the water tariff issued to TWU at the time the application was filed.
37. TWU's tariff in force for its other water systems on the date the application was filed was approved in Docket No. 52201.³
38. The initial rates requested by TWU are as follows:

³ *Application of Utilities Investment Company, Inc. and UIC 13 LLC and Monarch Utilities I L.P. for Sale, Transfer, or Merger of Facilities and Certificate Rights in Harris, Liberty, and Chambers Counties, Docket No. 52201, Amended Notice of Approval (Aug. 26, 2022).*

Minimum Monthly Charge 5/8" Meter – \$48.37	
0 – 2,000 gallons	\$6.48 per 1,000 gallons
2,001 – 5,000 gallons	\$7.98 per 1,000 gallons
5,001 – 10,000 gallons	\$7.98 per 1,000 gallons
10,001 – 20,000 gallons	\$9.05 per 1,000 gallons
20,000+ gallons	\$9.64 per 1,000 gallons

Ability to Serve: Managerial and Technical

39. The operations, maintenance, management, and customer services will be provided by TWU through TCEQ-licensed operators who will operate the public water and wastewater systems.
40. Reliability and quality of water service is expected to improve under TWU's management.
41. TWU has access to an adequate supply of water and is capable of providing water that meets the requirements of chapter 341 of the Texas Health and Safety Code, chapter 13 of the Texas Water Code (TWC), and the TCEQ's rules.
42. TWU has the technical and managerial capability to provide continuous and adequate service to the requested area.

Ability to Serve: Financial Ability and Stability

43. TWU's affiliate, SouthWest Water Company (SouthWest), is capable, available, and willing to cover any temporary cash shortages and operating expense shortfalls and has a debt-service coverage ratio that is greater than 1.25. Therefore, TWU satisfies the leverage test.
44. TWU projects no operating and maintenance shortages in the first five years after completion of the transaction. Therefore, TWU satisfies the operations test.
45. TWU possesses the funds necessary for the purchase price of Southern Horizons' public water systems and for the construction of TWU's planned capital improvements.
46. TWU has demonstrated the financial capability and stability to provide continuous and adequate water service.

Financial Assurance

47. There is no need to require TWU to provide a bond or other financial assurance to ensure continuous and adequate service.

Feasibility of Obtaining Service from an Adjacent Retail Public Utility

48. It is not feasible for an adjacent utility to provide service to the requested area because Southern Horizons' existing facilities possess sufficient capacity to provide continuous and adequate service.
49. Utilities within a two-mile radius were noticed and no protests, adverse comments, or motions to intervene were filed by any adjacent retail public utility in this docket.

Environmental Integrity

50. The proposed transaction will not adversely affect the environmental integrity of the land.
51. The effect on the land should be minimal as the requested area will continue to be served with existing facilities with new facilities anticipated shortly after closing.

Improvement of Service or Lowering Costs to Consumers

52. The proposed transaction will improve reliability and quality of water service because the water systems will be operated and maintained by a sufficient number of licensed operators.

Regionalization or Consolidation

53. The construction of a physically separate water system is not necessary for TWU to serve the requested area; therefore, it is not necessary to consider regionalization or consolidation.

Voluntary Valuation of Acquired Utility or Facilities

54. TWU notified the Commission of its intent to use a fair market value process to determine the ratemaking rate base of Southern Horizons.
55. TWU provided copies of the three appraisal reports and evidence of the purchase price with the application.

56. The appraised value for Southern Horizons reported by each utility valuation expert is identified in confidential Attachment FB-1 filed with Commission Staff's recommendation on approval of the sale.
57. The average of the three appraisals yields the fair market value for Southern Horizons, and TWU and Southern Horizons agreed to a purchase price that is equal to the fair market value.
58. The ratemaking rate base for Southern Horizons is the fair market value identified in confidential Attachment FB-1.
59. TWU provided evidence of the amount of fees paid to the three utility valuation experts with the application.
60. No additional conditions for the acquisition based on the FMV process are needed.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. Notice of the application was provided in compliance with TWC §§ 13.246 and 13.301(a)(2), and 16 Texas Administrative Code (TAC) §§ 24.235 and 24.239(e).
2. After consideration of the factors in TWC § 13.246(c), TWU demonstrated that it is capable of rendering continuous and adequate water service to every customer within the requested area, as required by TWC § 13.251.
3. TWU demonstrated adequate financial, managerial, and technical capability for providing adequate and continuous service to the requested area as required by TWC §§ 13.241(a) and 13.301(b).
4. The applicants demonstrated that the sale of Southern Horizons' facilities and the transfer of a portion of the service area held under water CCN number 12863 to TWU will serve the public interest and is necessary for the service, accommodation, convenience, and safety of the public, as required TWC §§ 13.246(b) and 13.301(d) and (e).
5. TWU filed its notice of intent to use fair market value as required by TWC § 13.305(c)(1) and 16 TAC § 24.238(d).
6. The Commission's Executive Director selected three utility valuation experts to perform appraisals of Southern Horizons in compliance with TWC § 13.305(c)(2) and 16 TAC § 24.238(e).

7. The application included copies of the three appraisal reports completed by the utility valuation experts as required by TWC § 13.305(h)(1) and 16 TAC § 24.238(f)(5)).
8. The application included the purchase price agreed to by the applicants as required by TWC § 13.305(h)(2).
9. The application included the ratemaking rate base determined under TWC § 13.305(g) and 16 TAC § 24.238 as required by TWC § 13.305(h)(3).
10. The application included the known transaction and closing costs incurred by TWU to be requested for review and recovery in TWU's rate base in a future rate case as permitted by TWC § 13.305(g) and 16 TAC § 24.238(k).
11. The calculation of the fair market valuation for Southern Horizons complies with TWC § 13.305(f) and 16 TAC § 24.238(f)-(j).
12. The calculation of the ratemaking rate base for Southern Horizons complies with TWC § 13.305(g) and 16 TAC § 24.238(b)(3)-(4).

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The sale and transfer is approved, and the transaction between Southern Horizons and TWU may proceed and be consummated as proposed.
2. As soon as possible after the effective date of the transaction, but not later than 30 days after the effective date, the applicants must file proof that the transaction has been consummated and customer deposits, if any, have been addressed.
3. The applicants have 180 days from the date of this Order to complete the transaction.
4. Under 16 TAC § 24.239(m), if the transaction is not consummated within this 180-day period, and an extension is not granted, this approval is void, and the applicants will have to reapply for approval.
5. The applicants are notified that the facilities and service area subject to the transaction will remain under water CCN number 12863, which will be held by Southern Horizons

until the sale and transfer transaction is consummated in accordance with Commission rules.

6. In an effort to finalize this case as soon as possible, the applicants must file monthly updates regarding the status of the closing and submit documents evidencing that the transaction was consummated.
7. Within 15 days following the filing of the applicants' proof that the transaction has been consummated and customer deposits, if any, have been addressed, Commission Staff must file a recommendation regarding the sufficiency of the documents and propose a schedule for continued processing of this docket.

Signed at Austin, Texas the _____ day of August, 2023.

PUBLIC UTILITY COMMISSION OF TEXAS

ISAAC TA
ADMINISTRATIVE LAW JUDGE