

SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

**Order Adopting Policies for Storm Water Protection and
Establishing Penalty for Violation**

The Board of Directors ("Board") of Southern Montgomery County Municipal Utility District ("District") met at the District's regular meeting place on January 21, 2009, with a quorum of directors present, as follows:

Kerry Masson, President
Bruce Harrison, Vice President
A. H. Newton, Secretary
Christine Stebel, Treasurer

when the following business was transacted:

The order set out below ("Order") was introduced for consideration of the Board. It was then duly moved and seconded that said Order be adopted; and, after due discussion, said motion carried by the following vote:

Ayes: All directors shown present.

Noes: None.

The Order thus adopted is as follows:

SOUTHERN MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

ORDER ADOPTING POLICIES FOR STORM WATER PROTECTION AND ESTABLISHING PENALTY FOR VIOLATION

ARTICLE I GENERAL PROVISIONS

Section 1.1 Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Order, shall have the meanings hereinafter designated.

Aquatic Monitoring Organism means the Fathead minnow *Pimephales promelas*, the bacterium *Vibrio fischeri* or the daphnid *Ceriodaphnia dubia*.

Best management practices (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, Structural Controls, and other management practices to prevent or reduce the Pollution of the MS4 and Waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage areas.

CFR means the Code of Federal Regulations.

Clean Water Act (CWA) - The Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub.L. 92-500, as amended, Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

Common Plan of Development or Sale means construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A Common Plan of Development or Sale is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

Construction Operator means the Person or Persons associated with a small or large construction project that meet the following two criteria:

1) They have operational control over the construction plans and specifications (including the approval of revisions to the extent necessary to meet requirements and conditions of this Order); and 2) they have the day-to-day operational control of those activities at the construction site necessary to ensure compliance with SWPPP requirements and any permit conditions.

Contaminated means containing a Harmful Quantity of any substance.

Conveyance means curbs, gutters, man-made channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport Storm Water runoff.

Discharge means any addition or introduction of any pollutant, Storm Water, or any other substance whatsoever into the Municipal Separate Storm Sewer System (MS4) or into Waters of the United States.

Discharger means any Person who causes, allows, permits, or is otherwise responsible for, a Discharge, including, without limitation, any Construction Operator or an industrial facility operator.

District means Southern Montgomery County Municipal Utility District.

Drainage District No. 6 means Montgomery County Drainage District No. 6.

Environmental Protection Agency or EPA means the United States Environmental Protection Agency, or any duly authorized official of said agency.

General Manager means the District's General Manager or authorized representative.

Groundwater Infiltration means groundwater that enters a Municipal Separate Storm Sewer System (including sewer service connections and foundation drains) through such means as defective pipes, pipe joints, connections, or manholes.

Harmful Quantity means the amount of any substance that will cause Pollution of waters in the State, Waters of the United States, or that will cause lethal or sub-lethal adverse effects on Aquatic Monitoring Organisms upon their exposure to samples of any Discharge into waters in the State, Waters of the United States, or the MS4.

Illicit Connection means any man-made conveyance connecting an Illicit Discharge directly to a municipal separate storm sewer.

Illicit Discharge means any Discharge to a municipal separate storm sewer that is not entirely composed of Storm Water, except Discharges pursuant to this general permit or a separate authorization and Discharges resulting from emergency fire fighting activities.

Large Construction Activity means construction activities including clearing, adding, and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large Construction Activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger Common Plan of Development or Sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large Construction Activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar Storm Water Conveyance. Large Construction Activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

Municipal Separate Storm Sewer System (MS4) means the system of Conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins curbs, gutters, ditches, man-made channels or storm drains) owned and Operated by the District and designed or used for collecting or conveying Storm Water, and which is not used for collecting or conveying sewage.

National Pollutant Discharge Elimination System means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal Clean Water Act.

New Development means any construction activity or alteration of unimproved property that results in the disturbance of one (1) or more acres, including projects of less than one (1) acre that are part of Common Plan of Development or Sale that will result in the disturbance of more than one (1) acre.

NOI means Notice of Intent.

Notice of Intent means the Notice of Intent that is required by the NPDES Storm Water Multi-Sector General Permit, the EPA Region 6 NPDES Storm Water Construction general permit, the

TPDES general permit or any similar general permit to discharge a Storm Water Discharge Associated with Construction Activity that is issued by the EPA or the TCEQ.

NPDES means the National Pollutant Discharge Elimination System.

NPDES permit means a permit issued by EPA (or by the State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the Discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Operate means drive, conduct, work, run, manage, or control.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representative's agents, or assigns. This definition includes all Federal, State, and local governmental entities.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of any Water of the State or Water of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Rate Order means the Order By Southern Montgomery County Municipal Utility District Establishing Utility Rates And Adopting Rules And Regulations Relating To The Administration Of Its Utility Services And Establishing Penalties For Violation Of Those Rules And Regulations.

Redevelopment means alterations of a property that changed the "footprint" of a site or building in such a way that there is a disturbance of equal to or greater than one (1) acre of land, including property of less than one (1) acre that are part of a Common Plan of Development or Sale that will result in disturbance of more than one (1) acre. This term does not include such activities as exterior remodeling.

Responsible Party means any Construction Operator, landowner, or other Person responsible for a Discharge of Storm Water subject to this Order.

Small Construction Activity means construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small Construction Activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger Common Plan of Development or Sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small Construction Activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar Storm Water Conveyance. Small Construction Activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

State means the State of Texas.

Storm Water means rainfall runoff, snow melt runoff and surface runoff and drainage.

Storm Water Manager means the District's General Manager or the Storm Water inspector engaged or employed by Drainage District No. 6.

Storm Water Discharge Associated with Construction Activity means the Storm Water runoff from any area where there is either a Large Construction Activity or a Small Construction Activity that is required by the Clean Water Act to have a permit to discharge Storm Water.

Storm Water Pollution Prevention Plan (SWPPP) means a plan required by a permit to discharge Storm Water associated with construction activity, and which describes and ensures the implementation of BMPs that are to be used to reduce the pollutants in Storm Water Discharges associated with construction activity at the facility.

Structural Control (or Practice) means a Pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent Pollution in Storm Water runoff. Structural Controls and practices may include but are not limited to: wet ponds, bioretention, infiltration basins, Storm Water Wetlands, silt fences, earthen dikes, drainage swales, vegetative lined ditches, vegetative filter strips, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

Surface Water means lakes, bays, ponds, impounding reservoirs springs, rivers, streams, creeks, estuaries, Wetlands, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the State (from the mean high water mark (MHW) out 10.36 miles into the Gulf), and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the State or subject to the jurisdiction of the State; except that waters in treatment systems which are authorized by State or federal law, regulation, or permit, and which are created for the purpose of waste treatment are not considered to be water in the State.

SWPPP means Storm Water Pollution Prevention Plan.

TAC means the Texas Administrative Code.

TCEQ means the Texas Commission on Environmental Quality or any successor agency.

Texas Pollutant Discharge Elimination System means the program delegated to the State of Texas by the EPA pursuant to 33 USC § 1342(b).

TPDES means the Texas Pollutant Discharge Elimination System.

Unauthorized Connection means any man-made Conveyance which connects directly to a Municipal Separate Storm Sewer System and conveys Storm Water.

Uncontaminated means not containing a Harmful Quantity of any substance.

USC means United States Code.

Waters of the United States - (from 40 CFR § 122.2) means Waters of the United States or waters of the U.S.

- (a) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) all interstate waters, including interstate Wetlands;
- (c) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, Wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds that the use, degradation, or destruction of which

would affect or could affect interstate or foreign commerce including any such waters:

- (1) which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) all impoundments of waters otherwise defined as Waters of the United States under this definition;
- (e) tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) the territorial sea; and
- (g) Wetlands adjacent to waters (other than waters that are themselves Wetlands) identified in paragraphs (a) through (d) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not Waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in Waters of the United States (such as disposal area in Wetlands) nor resulted from the impoundment of Waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Wetland means an area that is inundated or saturated by Surface Water or ground-water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 1.2. Administration.

The Storm Water Manager is authorized to administer, implement, and enforce the provisions of this Order.

Section 1.3. Access to Land and Facilities and Inspection.

- (a) The Storm Water Manager is authorized to enter onto any land or facilities subject to this Order for the purposes of conducting any inspection necessary to assure compliance with this Order or removing any Illicit Connection or Unauthorized Connection located on the land or facilities.
- (b) The Responsible Party shall allow the Storm Water Manager ready access to all parts of the facilities and premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES or TPDES permit to discharge Storm Water, and the performance of any additional duties as defined by State and federal law and this Order.
- (c) The Storm Water Manager shall have the right to set up on any permitted facility or land such devices as are necessary in the opinion of the Storm Water Manager to conduct monitoring and/or sampling of the Storm Water Discharge.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility or land to be inspected and/or sampled shall be promptly removed by the Responsible Party at the written or oral request of the Storm Water Manager and shall not be replaced. The costs of clearing such access shall be borne by the Responsible Party.
- (e) Unreasonable delays in allowing the Storm Water Manager access to a permitted facility are a violation of a Storm Water discharge permit and of this Order. A Person commits a violation if the Person denies the Storm Water Manager reasonable access to the facility or land for the purpose of conducting any activity authorized or required by this Order.
- (f) If a Responsible Party receives a written notice of deficiency, the Responsible Party must correct the deficiency by the time stated in the notice. If the deficiency is not timely corrected, the District will assess a \$500 reinspection fee, in addition to any other remedies available under the Order.

Section 1.4. Emergency Suspension of Utility Service and MS4 Access.

- (a) The District may, without prior notice, suspend water service, sanitary sewer service, and/or MS4 discharge access to a Person discharging to the MS4, Waters of the United States, when such suspension is necessary to stop an actual or threatened Discharge which:
 - (1) presents or may present imminent and substantial danger to the environment or to the health or welfare of Persons; or
 - (2) presents or may present imminent and substantial danger to the MS4 Surface Water or Waters of the United States.
- (b) As soon as is practicable after the suspension of service or MS4 discharge access, the General Manager shall notify the violator of the suspension in person or by certified mail, return receipt requested, and shall order the violator to cease the Discharge immediately.
- (c) If the violator fails to comply with an order issued under subsection (b), the General Manager may take such steps as the General Manager deems necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to Persons.
- (d) The District shall not reinstate suspended services or MS4 access to the violator until:
 - (1) The violator presents proof, satisfactory to the General Manager, that the non complying Discharge has been eliminated and its cause determined and corrected;
 - (2) The violator pays the District for all costs the District incurred in responding to abating, and remediating the Discharge or threatened Discharge; and
 - (3) The violator pays the District for all costs the District will incur in reinstating service or access.
- (e) A violator whose service or access has been suspended or disconnected may appeal such enforcement action to the Board of Directors of the District, in writing, within ten days of notice of the suspension.
- (f) The remedies provided by this Section are in addition to any other remedies set out in this Order, the Rate Order or any other duly adopted policies of the District. Exercise of this

remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

Section 1.5. Non-emergency Suspension of or Refusal to Provide Utility Service and MS4 Access.

- (a) The District may terminate or refuse to provide the District-provided water supply, sanitary sewer connection, and/or MS4 access any Person in violation with any provision of this Order.
- (b) The General Manager will notify a violator at least seven (7) days in advance of the proposed termination of its water supply, sanitary sewer connection, and/or MS4 access via certified mail, return receipt requested. The violator may petition the Board of Directors of the District for a reconsideration and hearing.
- (c) If service is disconnected or if the District refuses to provide service, the District shall not reinstate suspended services or MS4 access or provide service to the Discharger until:
 - (1) The violator presents proof, satisfactory to the General Manager, that the violation has been corrected; and
 - (2) The violator pays the District for all fees and charges for reinstatement and service or MS4 access.
- (d) The remedies provided by this Section are in addition to any other remedies set out in this Order and the District's Rate Order. Exercise of this remedy shall not be a bar against, nor a prerequisite for, taking other action against a violator.

**ARTICLE II
ILLICIT DISCHARGES**

Section 2.1 Discharge to MS4 Prohibited.

- (a) No Person may introduce or cause to be introduced into the MS4 any Discharge that is not composed entirely of Storm Water, except the following categories of Discharges:

- (1) Water line flushing (excluding Discharges of hyperchlorinated water, unless the water is first dechlorinated and the Discharges are not expected to adversely affect aquatic life);
- (2) Runoff or return flow from landscape irrigation, lawn irrigation or other irrigation utilizing potable water, groundwater or Surface Water sources, provided the water does not contain significant amounts of fertilizers, pesticides, herbicides, or other undesirable lawn care products;
- (3) A Discharge from a potable water source;
- (4) A diverted stream flow;
- (5) Rising groundwater and springs;
- (6) Uncontaminated Groundwater Infiltration (as defined at 40 C.F.R. § 35.2005(20)) to the MS4;
- (7) Uncontaminated pumped ground water;
- (8) Foundation and/or footing drain;
- (9) Air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
- (10) Water from crawl space pumps;
- (11) Individual residential and charity car washing;
- (12) A Discharge or flow from a riparian habitat or Wetland;
- (13) Drainage from a private residential swimming pool that has been dechlorinated and contains no harmful quantities of chlorine or other chemicals, not including drainage from swimming pool filter backwash;
- (14) A Discharge or flow from cold water (or hot water with prior permission of the Storm Water Manager) used in street washing or cosmetic cleaning that is not Contaminated;

- (15) A Discharge or flow resulting from fire fighting activities (fire fighting activities do not include washing of trucks, runoff from training activities, test water from fire suppression systems, and similar activities);
 - (16) Other similar occasional incidental non-storm water Discharges, unless the TCEQ develops permits or regulations addressing these changes;
 - (17) Other allowable non-storm water Discharges listed in 40 CFR § 122.26(d)(2)(iv)(B)(1);
 - (18) Non-storm water Discharges that are specifically listed in the TPDES Multi-Section Ground Permit (MSGP) or the TPDES Construction General Permit (CGP); and
 - (19) A non-storm water Discharge authorized by, and in full compliance with, an NPDES or TPDES permit (other than the NPDES permit for Discharges from the MS4).
- (b) The District may determine, on a case-by-case basis, that any of the above categories of Discharge in Subsection (a) are:
- (1) A source of a Pollutant or Pollutants to the Waters of the United States or to the MS4 and may prohibit the Discharges provided that written notice of such determination has been provided to the Discharger; and
 - (2) The Discharge has continued after the expiration of the time given in the notice to cease the Discharge.
- (c) A Person commits a violation if the Person introduces or causes to be introduced into the MS4 any Harmful Quantity of any substance.

Section 2.2. Connection of Sanitary Sewer Prohibited.

No Person may connect a line conveying sewage to the MS4, or allow such a connection to continue.

Section 2.3. Nuisances.

An actual or threatened Discharge to the MS4 that violates or would violate this Order is hereby declared to be a nuisance.

Section 2.4. Illicit Connections and Unauthorized Connections Prohibited.

Illicit Connections and Unauthorized Connections are prohibited. The District may immediately and without notice to any Person disconnect any Illicit Connections and Unauthorized Connections.

Section 2.5. Spills into the MS4.

Any Discharge into the MS4 subject to the reporting requirements of 30 TAC 319.302 or 30 TAC 327.3 or otherwise in violation of this Order shall be reported to the General Manager as soon as possible and not later than 24 hours after the occurrence.

ARTICLE III

**STORM WATER DISCHARGES ASSOCIATED
WITH CONSTRUCTION ACTIVITY**

Section 3.1. Storm Water Discharges Associated with Construction Activity.

All facilities located within the District that have Storm Water Discharges Associated with Construction Activity must have a valid NPDES or TPDES permit for Storm Water Discharges.

Section 3.2. Unpermitted Discharges Prohibited

A Person who is the Construction Operator of a facility commits a violation if the Person discharges, or causes to be discharged a Storm Water Discharge Associated with Construction Activity without first having obtained a NPDES or TPDES permit to do so.

Section 3.3 Submission of NOI to District and Approval of SWPPP.

- (a) The Construction Operator of a facility, including construction sites, required to have a NPDES or TPDES permit to discharge a Storm Water Discharge Associated with Construction Activity shall submit a copy of the following to the General Manager: (1) Notice of Intent (NOI) submitted to the EPA or the TCEQ as applicable; (2) a certification that the NOI has been submitted to the EPA or TCEQ as applicable; (3) a certification that the NOI and the SWPPP have been submitted to Drainage District No. 6, if applicable; and (4) a copy of the site plan detailing the SWPPP.
- (b) The copy of the Notice of Intent, certifications, and site plan may be delivered to the General Manager either in person or by mailing it to:

Notice of Intent to Discharge Storm Water
Southern Montgomery County Municipal Utility District
25212 Interstate 45
Spring, Texas 77379

- (c) A Person commits a violation if the Person Operates a facility that is discharging a Storm Water Discharge Associated with Construction Activity without having submitted a copy of the Notice of Intent, certifications, and a SWPPP to the General Manager as provided in Subsection (a) above.
- (d) The General Manager must approve the SWPPP before the Construction Operator of the Facility commences any site work.
- (e) A Person commits a violation if the Person Operates a facility that is discharging a Storm Water Discharge Associated with Construction Operator without having a SWPPP approval by the District.

Section 3.4. Compliance with Permit and SWPPP.

- (a) A facility shall be Operated in strict compliance with the requirements of its NPDES or TPDES permit to discharge Storm Water associated with construction activity or its SWPPP.

- (b) A Person commits a violation if the Person Operates a facility in violation of a requirement of the facility's NPDES or TPDES permit to discharge a Storm Water Discharge Associated with Construction Activity or its SWPPP.

Section 3.5. Modification of Storm Water Pollution Prevention Plans

- (a) The General Manager may require any Construction Operator of a facility to modify the facility's SWPPP if in the best professional judgment of the General Manager, the SWPPP does not comply with the requirements of the facility's NPDES or TPDES permit to discharge a Storm Water Discharge Associated with Construction Activity, if modification is necessary to prevent Pollution, or if the BMPs listed in the SWPPP are not adequate.
- (b) The deficiencies in a facility's SWPPP will be identified in writing, and the General Manager will give the Construction Operator a reasonable amount of time, not to exceed thirty days, to make the necessary changes in the SWPPP.

ARTICLE IV

POST-CONSTRUCTION STORM WATER MANAGEMENT

Section 4.1. Post Construction Storm Water Management

- (a) All New Development and Redevelopment commenced after January 1, 2009 must comply with all Post-Construction Storm Water Management policies and procedures adopted by Drainage District No. 6, and by reference herein are duly adopted by the District.
- (b) A Person commits a violation if the Person discharges Storm Water in contravention of Drainage District No. 6's policies.

ARTICLE V

PENALTIES

Section 5.1 Any Person violating any provisions of this Order or failing to observe any provisions hereof shall be subject to a penalty not to exceed the jurisdiction of a justice court as provided by Section 27.031, Texas Government Code, currently \$5,000, and each violation shall constitute a separate offense. Furthermore, each day that a breach of any provision hereof continues shall be considered a separate breach. Such penalties shall be in addition to any other penalties provided by the laws of the State of Texas. In all suits to enforce its rules, the District shall seek to recover reasonable fees for attorneys, expert witnesses and other costs incurred by the District before the court.

Section 5.2 In addition to proceeding under authority of Section 5.1 of this Article, the District is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a Person continuing Illicit Discharges, Illicit Connections, or Unauthorized Connections.

Section 5.3 The District, in its discretion, may require any Person violating any provisions of this Order to pay all costs or damages resulting from such violations, including the costs of clean up, fines imposed by any regulatory body with jurisdiction.

Section 5.4 Notice of the adoption of these rules and regulations and of the penalty therein provided shall be given by publication in a newspaper as provided by law.

ARTICLE VI

NON-WAIVER

Section 6.1 The failure on the part of the District to enforce any article, section, clause, sentence or provision of this Order shall not constitute a waiver of the right of the District later to enforce any article, section, clause, sentence or provision of this Order.

ARTICLE VII
VALIDITY

Section 7.1 All provisions of District orders or regulations in conflict herewith are hereby repealed. The validity of any article, section, clause, sentence or provision of this Order shall not affect the validity of any other part of this Order, which can be given effect without the invalidated part or parts.

ARTICLE VIII
SEVERABILITY

Section 8.1 If any provision, article, section or paragraph of this Order is invalidated by any court of competent jurisdiction, the remaining provisions, articles, sections and paragraphs shall not be affected and shall continue in full force and effect.

Passed and adopted on the date first above written.

KERRY MASSON

President

ATTEST:

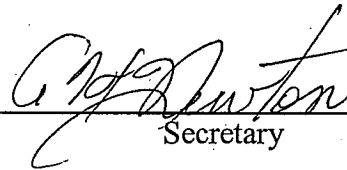
ALBERT H. NEWTON

Secretary

I, the undersigned secretary of the board of directors of Southern Montgomery County Municipal Utility District, hereby certify that the foregoing is a true and correct copy of the Order Adopting Policies for Storm Water Protection and Establishing Penalty for Violation, the original of which instrument, dated January 21, 2009, appears in the official minute book of the board, on file and open to the public at the office of the District.

I further certify that said meeting was open to the public, and that notice thereof was posted in compliance with the provisions of Tex. Gov't. Code Ann. § 551.001 et seq.

Witness my hand and the seal of said District, this January 21, 2009.


Secretary

