

Executive Summary – Enforcement Matter – Case No. 47689
City of Bastrop
RN101510832
Docket No. 2013-1795-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

East Bastrop WWTP, located at 300 Water Street, approximately 0.2 mile south of State Highway 71 and immediately east of the Colorado River, Bastrop, Bastrop County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 31, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,250

Amount Deferred for Expedited Settlement: \$2,850

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$11,400

Name of SEP: Bastrop Collection Event

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 23, 2013

Date(s) of NOE(s): September 10, 2013

Executive Summary – Enforcement Matter – Case No. 47689

City of Bastrop

RN101510832

Docket No. 2013-1795-MWD-E

Violation Information

Failed to comply with permitted effluent limits for ammonia nitrogen, total suspended solids, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0011076001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By June 30, 2013, the Respondent made renovations to the clarifier in Waste Water Treatment Plant 1 and returned to compliance with all permitted effluent limits at the Facility.

Technical Requirements:

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Had Darling, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2520; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205

Respondent: Michael H. Talbot, City Manager, City of Bastrop, P.O. Box 427, Bastrop, Texas 78602-0427

The Honorable Terry Orr, Mayor, City of Bastrop, P.O. Box 427, Bastrop, Texas 78602-0427

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-1795-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bastrop
Penalty Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
SEP Offset Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
Type of SEP:	Custom
Project Name:	<i>Bastrop Collection Event</i>
Location of SEP:	Bastrop County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a three-day collection event to collect old batteries, oil products, used paint, anti-freeze (BOPA), brush, and used tires. Respondent shall solicit bids and hire a certified transporter to remove and properly dispose of the collected waste. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

The BOPA event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*, below.

Respondent shall ensure that the collection event:

1. occurs on a weekend during daylight hours
2. offers to the public a free and convenient drop-off location
3. shall not accept any HHW other than BOPA wastes
4. uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset

Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a means of properly disposing of BOPA, which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with BOPA, and will provide for proper and protective disposal or recycling of collected materials.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
BOPA waste contractor/transporter	1	\$11,400.00	Each	\$11,400.00
40 cubic yard dumpster	8	410.00	Each	3280.00
Brush chipper	1	90.00	Each	90.00
Backhoe	1	200.00	Each	200.00
Skid steer	1	150.00	Each	150.00
Total				\$15,120.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to

implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials.
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	16-Sep-2013		
	PCW	26-Nov-2013	Screening	18-Sep-2013
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Bastrop		
Reg. Ent. Ref. No.	RN101510832		
Facility/Site Region	11-Austin	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	47689	No. of Violations	2
Docket No.	2013-1795-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Had Darling
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 18-Sep-2013

Docket No. 2013-1795-MWD-E

PCW

Respondent City of Bastrop

Policy Revision 3 (September 2011)

Case ID No. 47689

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101510832

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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%
<i>Please Enter Yes or No</i>			
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) 20%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for two months of self-reported effluent violations and two NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 20%

Screening Date 18-Sep-2013

Docket No. 2013-1795-MWD-E

PCW

Respondent City of Bastrop

Policy Revision 3 (September 2011)

Case ID No. 47689

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101510832

Media [Statute] Water Quality

Enf. Coordinator Had Darling

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011076001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on August 23, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One monthly event is recommended for the month of May 2013.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent achieved compliance on June 30, 2013.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$415

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

Economic Benefit Worksheet

Respondent City of Bastrop
Case ID No. 47689
Req. Ent. Reference No. RN101510832
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	0.00			0.00	\$0	\$0	\$0
Buildings	0.00			0.00	\$0	\$0	\$0
Other (as needed)	0.00			0.00	\$0	\$0	\$0
Engineering/construction	0.00			0.00	\$0	\$0	\$0
Land	0.00			0.00	\$0	n/a	\$0
Record Keeping System	0.00			0.00	\$0	n/a	\$0
Training/Sampling	0.00			0.00	\$0	n/a	\$0
Remediation/Disposal	0.00			0.00	\$0	n/a	\$0
Permit Costs	0.00			0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Aug-2012	30-Jun-2013	0.83	\$415	n/a	\$415

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to replace the fabric filter at the Facility.
 Date required is the initial date of noncompliance. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	0.00			0.00	\$0	\$0	\$0
Personnel	0.00			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.00			0.00	\$0	\$0	\$0
Supplies/equipment	0.00			0.00	\$0	\$0	\$0
Financial Assurance [2]	0.00			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	0.00			0.00	\$0	\$0	\$0
Other (as needed)	0.00			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	TOTAL	\$415
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Screening Date 18-Sep-2013
Respondent City of Bastrop
Case ID No. 47689
Reg. Ent. Reference No. RN101510832
Media [Statute] Water Quality
Enf. Coordinator Had Darling
Violation Number 2
Rule Cite(s)

Docket No. 2013-1795-MWD-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011076001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 23, 2013, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification				Percent
	Major	Moderate	Minor		
					0.0%

A simplified model was used to evaluate ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events: 2 61 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended for the quarters containing the months of August 2012 and April 2013.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes: The Respondent achieved compliance on June 30, 2013.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,125

This violation Final Assessed Penalty (adjusted for limits) \$7,125

Economic Benefit Worksheet

Respondent City of Bastrop
Case ID No. 47689
Req. Ent. Reference No. RN101510832
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

Avoided Costs

ANNUALIZE [1] 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 [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

City of Bastrop
TPDES Permit No. WQ0011076001
Docket No. 2013-1795-MWD-E

Effluent Violation Table			
Permitted Effluent Limits	Monitoring Period		
	August 2012	April 2013	May 2013
CBOD ₅ Daily Maximum Concentration Limit = 25 mg/L	43.7	58	72
CBOD ₅ Daily Average Concentration Limit = 10 mg/L	c	13.27	17.04
Ammonia Nitrogen Daily Average Concentration Limit = 2 mg/L	c	7.03	9.41
Ammonia Nitrogen Daily Max Concentration Limit = 10 mg/L	c	21.2	40.7
Ammonia Nitrogen Daily Average Loading Limit = 23 lbs/day	c	47.25	60.12
TSS Daily Average Concentration Limit = 15 mg/L	c	c	16.98
TSS Daily Max Concentration Limit = 40 mg/L	c	44	63.3

CBOD₅ = five-day carbonaceous biochemical oxygen demand
TSS = total suspended solids
mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant



Compliance History Report

Customer, Respondent, or Owner/Operator: CN600339568, City Of Bastrop **Classification:** SATISFACTORY **Rating:** 2.91

Regulated Entity: RN101510832, East Bastrop WWTP **Classification:** SATISFACTORY **Rating:** 2.91

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 08 - Sewage Treatment Facilities

Location: 300 Water Street, approximately 0.2 mile south of State Highway 71 and immediately east of the Colorado River in Bastrop, Bastrop County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

WASTEWATER PERMIT WQ0011076001 **WASTEWATER EPA ID** TX0032671
WASTEWATER LICENSING LICENSE WQ0011076001

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: September 17, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 17, 2008 to September 17, 2013

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

Name: Had Darling **Phone** (512) 239-2520

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
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

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

- A. Final Orders, court judgments, and consent decrees:**
N/A
- B. Criminal convictions:**
N/A
- C. Chronic excessive emissions events:**
N/A
- D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	September 18, 2008	(712484)
Item 2	October 17, 2008	(728720)
Item 3	November 19, 2008	(728721)
Item 4	December 18, 2008	(728722)
Item 5	January 16, 2009	(751818)
Item 6	February 20, 2009	(751815)
Item 7	March 11, 2009	(751817)
Item 8	March 18, 2009	(751816)

Item 9	April 16, 2009	(769573)
Item 10	May 20, 2009	(926325)
Item 11	June 16, 2009	(926326)
Item 12	August 18, 2009	(926327)
Item 13	September 17, 2009	(926328)
Item 14	October 20, 2009	(926329)
Item 15	November 19, 2009	(926330)
Item 16	December 16, 2009	(808423)
Item 17	January 14, 2010	(808424)
Item 18	February 19, 2010	(808422)
Item 19	March 22, 2010	(832264)
Item 20	April 16, 2010	(832265)
Item 21	May 24, 2010	(832266)
Item 22	June 21, 2010	(846696)
Item 23	July 09, 2010	(861230)
Item 24	August 19, 2010	(867357)
Item 25	September 17, 2010	(874392)
Item 26	November 09, 2010	(881972)
Item 27	December 14, 2010	(888451)
Item 28	December 20, 2010	(896757)
Item 29	January 18, 2011	(902743)
Item 30	February 17, 2011	(909574)
Item 31	March 16, 2011	(916791)
Item 32	April 21, 2011	(926324)
Item 33	May 19, 2011	(938507)
Item 34	May 24, 2011	(908884)
Item 35	June 17, 2011	(945875)
Item 36	August 02, 2011	(953132)
Item 37	August 16, 2011	(959781)
Item 38	September 15, 2011	(965818)
Item 39	October 06, 2011	(991085)
Item 40	October 18, 2011	(971859)
Item 41	November 21, 2011	(978030)
Item 42	December 20, 2011	(984793)
Item 43	February 21, 2012	(998453)
Item 44	March 22, 2012	(1003980)
Item 45	May 14, 2012	(1016924)
Item 46	June 15, 2012	(1024676)
Item 47	July 19, 2012	(1032045)
Item 48	August 16, 2012	(1038469)
Item 49	October 18, 2012	(1062871)
Item 50	November 20, 2012	(1062872)
Item 51	December 14, 2012	(1062873)
Item 52	February 19, 2013	(1079998)
Item 53	March 19, 2013	(1089792)
Item 54	April 19, 2013	(1096189)
Item 55	July 23, 2013	(1117666)

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: | 04/30/2013 | (1107130) | CN600339568 | |
| | Self Report? | YES | | Classification: | Moderate |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | | |
| | | | | | |
| 2 | Date: | 05/31/2013 | (1110783) | CN600339568 | |
| | Self Report? | YES | | Classification: | Moderate |
| | Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1) | | | |
| | Description: | Failure to meet the limit for one or more permit parameter | | | |

3	Date: 08/19/2013 (1105187)	CN600339568
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) Page 2, Item A PERMIT	
	Description: Failed to meet effluent limits.	
4	Date: 08/22/2013 (1105187)	CN600339568
	Self Report? NO	Classification: Moderate
	Citation: 30 TAC Chapter 30, SubChapter J 30.331(b) 30 TAC Chapter 30, SubChapter J 30.350(d) Page 23, Item 1 PERMIT	
	Description: Failed to employ an operator holding the appropriate level of license. Specifically, the operators of the facility possessed a Class C license instead of the required Class B license.	
	Self Report? NO	Classification: Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) Item 2.g PERMIT TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)	
	Description: Failed to prevent an unauthorized discharge. Six unauthorized discharges have occurred in the past 18 months.	

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
CITY OF BASTROP
RN101510832**

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

**AGREED ORDER
DOCKET NO. 2013-1795-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Bastrop ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at 300 Water Street, approximately 0.2 mile south of State Highway 71 and immediately east of the Colorado River in Bastrop, Bastrop County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 15, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fourteen Thousand Two Hundred Fifty Dollars (\$14,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Eight Hundred Fifty Dollars (\$2,850) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Eleven Thousand Four Hundred Dollars (\$11,400) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. 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.
8. 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).
9. The Executive Director recognizes that by June 30, 2013, the Respondent made renovations to the clarifier in Waste Water Treatment Plant 1 and returned to compliance with all permitted effluent limits at the Facility.
10. 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 Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011076001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 23, 2013, and shown in the table below:

Effluent Violation Table			
Permitted Effluent Limits	Monitoring Period		
	August 2012	April 2013	May 2013
CBOD ₅ Daily Maximum Concentration Limit = 25 mg/L	43.7	58	72
CBOD ₅ Daily Average Concentration Limit = 10 mg/L	c	13.27	17.04
Ammonia Nitrogen Daily Average Concentration Limit = 2 mg/L	c	7.03	9.41
Ammonia Nitrogen Daily Max Concentration Limit = 10 mg/L	c	21.2	40.7
Ammonia Nitrogen Daily Average Loading Limit = 23 lbs/day	c	47.25	60.12
TSS Daily Average Concentration Limit = 15 mg/L	c	c	16.98
TSS Daily Max Concentration Limit = 40 mg/L	c	44	63.3

CBOD₅ = five-day carbonaceous biochemical oxygen demand
TSS = total suspended solids
mg/L = milligrams per liter
lbs/day = pounds per day
c = compliant

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed 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. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Bastrop, Docket No. 2013-1795-MWD-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 implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Eleven Thousand Four Hundred Dollars (\$11,400) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed 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.
6. This Agreed 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 Agreed 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 Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed 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 Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

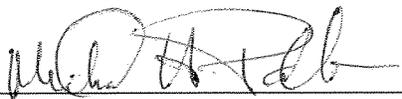
3/28/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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.


Signature

12-19-13
Date

Michael H. Talbot
Name (Printed or typed)
Authorized Representative of
City of Bastrop

City Manager
Title

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

Attachment A
Docket Number: 2013-1795-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bastrop
Penalty Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
SEP Offset Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
Type of SEP:	Custom
Project Name:	<i>Bastrop Collection Event</i>
Location of SEP:	Bastrop County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a three-day collection event to collect old batteries, oil products, used paint, anti-freeze (BOPA), brush, and used tires. Respondent shall solicit bids and hire a certified transporter to remove and properly dispose of the collected waste. Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

The BOPA event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, *Publicity*, below.

Respondent shall ensure that the collection event:

1. occurs on a weekend during daylight hours
2. offers to the public a free and convenient drop-off location
3. shall not accept any HHW other than BOPA wastes
4. uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset

Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a means of properly disposing of BOPA, which might otherwise be disposed of in regular landfills, storm drains, sewer systems, or other means detrimental to the environment. This SEP will provide assistance to help rid communities of the dangers and health threats associated with BOPA, and will provide for proper and protective disposal or recycling of collected materials.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
BOPA waste contractor/transporter	1	\$11,400.00	Each	\$11,400.00
40 cubic yard dumpster	8	410.00	Each	3280.00
Brush chipper	1	90.00	Each	90.00
Backhoe	1	200.00	Each	200.00
Skid steer	1	150.00	Each	150.00
Total				\$15,120.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to

implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (the advertisement must include the statement that the SEP was performed as a result of a TCEQ enforcement action);
4. A certified/notarized statement of quantifiable environmental benefit;
5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck, etc.), number of appliances (by type), gallons of paint, etc.
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials.
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.