

Executive Summary – Enforcement Matter – Case No. 47251
Brandywine Acquisition Partners LP
RN100815232
Docket No. 2013-1357-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Park at Barton Creek WWTF, located approximately 1000 feet south of the intersection of Loop 360 and Mopac Expressway, Travis 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: July 31, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,150

Amount Deferred for Expedited Settlement: \$3,630

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$14,520

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

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: April 17, 2013

Date(s) of NOE(s): June 21, 2013

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Violation Information

1. Failed to submit the annual sludge report to the TCEQ Austin Regional Office and the Compliance Monitoring Team by September 1st of each year. Specifically, the reports for 2011 and 2012 were not submitted to the TCEQ Austin Regional Office [TCEQ Permit No. WQ0014077001 Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(1) and (17)].
2. Failed to maintain monthly records demonstrating sludge was received by an authorized facility [30 TEX. ADMIN CODE § 305.125(11)(B) and TCEQ Permit No. WQ0014077001 Special Provisions No. 18].
3. Failed to comply with permitted effluent limits for nitrate and turbidity [TCEQ Permit No. WQ0014077001 Effluent Limitations and Monitoring Requirements, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)(1)].
4. Failed to submit noncompliance notifications to the TCEQ Austin Regional Office and the Compliance Monitoring Team within five working days of any effluent violations which deviate from the permitted effluent limitations by more than 40%. Specifically, the Respondent failed to submit noncompliance notifications for nitrate during the months of January 2012, March 2012, April 2012, October 2012, January 2013, and February 2013 [TCEQ Permit No. WQ0014077001 Monitoring and Reporting Requirements Nos. 7.a. and 7.c. and 30 TEX. ADMIN. CODE § 305.125(1)].
5. Failed to collect background groundwater samples from outside the influence of the effluent drip irrigation on a quarterly basis [TCEQ Permit No. WQ0014077001 Special Provisions No. 17.e.5. and 30 TEX. ADMIN. CODE § 305.125(1)].
6. Failed to install and properly locate three lysimeters as required by the permit in order to demonstrate groundwater protection. Specifically, the lysimeters were not installed adjacent to the drip irrigation zone closest to Barton Creek. Also, only two lysimeters had been installed [TCEQ Permit No. WQ0014077001 Special Provisions 17.e.4(C) and 30 TEX. ADMIN. CODE § 305.125(1)].
7. Failed to submit the Soil Moisture Monitoring Plan ("SMMP"), the Irrigation Management Plan ("IMP"), and the Shallow Groundwater Monitoring Plan ("SGMP") to the Ground Water Protection team [TCEQ Permit No. WQ0014077001 Special Provision Nos. 17.c. through 17.e. and 30 TEX. ADMIN. CODE § 305.125(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On September 30, 2013, the Respondent submitted the annual sludge reports for 2011 and 2012 and began maintaining complete monthly sludge records.

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Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of written reports for effluent violations which deviate by more than 40% from the permitted limit, and that all permitted parameters are collected and analyzed at the minimum required frequencies in accordance with TCEQ Permit No. WQ0014077001;
 - ii. Install and properly locate three lysimeters and collect background groundwater samples from outside the influence of the effluent drip irrigation, in accordance with TCEQ Permit No. WQ0014077001; and
 - iii. Submit the SMMP, the IMP and the SGMP.
- b. Within 45 days, submit written certification of compliance with a.i through a.iii.
- c. Within 180 days, submit written certification of compliance with the permitted effluent limitations of TCEQ Permit No. WQ0014077001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

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: Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548
TCEQ SEP Coordinator: N/A
Respondent: Gerald Sweeney, CEO/Director, Brandywine Acquisition Partners LP, 555 East Lancaster Avenue, Suite 100, Radnor, Pennsylvania
Brad A. Molotsky, Executive Vice President and General Counsel, Brandywine Acquisition Partners LP, 555 East Lancaster Avenue, Suite 100, Radnor, Pennsylvania
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	24-Jun-2013	Screening	5-Jul-2013	EPA Due	
	PCW	19-Jul-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Brandywine Acquisition Partners LP	
Reg. Ent. Ref. No.	RN100815232	
Facility/Site Region	11-Austin	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	47251	No. of Violations	7
Docket No.	2013-1357-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$20,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **-10.0%** Enhancement **Subtotals 2, 3, & 7** **-\$2,025**

Notes: Reduction for high performer classification.

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** **\$75**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$1,577**
 Approx. Cost of Compliance **\$14,010**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$18,150**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$18,150**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$18,150**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,630**

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

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$14,520**

Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

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>)	0	0%
	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%

Please Enter Yes or No

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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 5-Jul-2013

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PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) TCEQ Permit No. WQ0014077001 Sludge Provisions and 30 Tex. Admin. Code § 305.125(1) and (17)

Violation Description Failed to submit the annual sludge report to the TCEQ Austin Regional Office and the Compliance Monitoring Team by September 1st of each year. Specifically, the reports for 2011 and 2012 were not submitted to the TCEQ Austin Regional Office.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 2

673 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Two single events are recommended, one for each report.

Good Faith Efforts to Comply

10.0% Reduction

\$50

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent returned to compliance on September 30, 2013.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10

Violation Final Penalty Total \$400

This violation Final Assessed Penalty (adjusted for limits) \$400

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Reg. Ent. Reference No. RN100815232
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

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2011	30-Sep-2013	2.08	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost (\$50 for each report) to prepare and submit the annual sludge reports for 2011 and 2012. Date is required the date the first sludge report was due. Final date is the date of compliance.

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

\$100

TOTAL

\$10

Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin Code § 305.125(11)(B) and TCEQ Permit No. WQ0014077001
Special Provisions No. 18

Violation Description Failed to maintain monthly records demonstrating sludge was received by an authorized facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

79 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$25

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent returned to compliance on September 30, 2013.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$200

This violation Final Assessed Penalty (adjusted for limits) \$200

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Reg. Ent. Reference No. RN100815232
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
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	\$100	17-Apr-2013	30-Sep-2013	0.45	\$2	n/a	\$2
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

Estimated cost to begin maintaining complete monthly sludge records, in accordance with the permit requirements. Date required is the investigation date. Final date is the date of compliance.

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

\$100

TOTAL

\$2

Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) TCEQ Permit No. WQ0014077001 Effluent Limitations and Monitoring Requirements, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)(1)

Violation Description Failed to comply with permitted effluent limits, as documented during an investigation conducted on April 17, 2013. See attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes 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 the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5

241 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$6,250

Five quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,207

Violation Final Penalty Total \$5,625

This violation Final Assessed Penalty (adjusted for limits) \$5,625

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Reg. Ent. Reference No. RN100815232
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$10,000	31-Jan-2012	30-Jun-2014	2.41	\$1,207	n/a	\$1,207

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system and return to compliance with effluent limits. Date required is the month the first non-compliant excursion was documented. Final date is the projected date of compliance.

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	\$10,000	TOTAL	\$1,207
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Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s) TCEQ Permit No. WQ0014077001 Monitoring Requirements Nos. 7.a. and 7.c. and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to submit noncompliance notifications to the TCEQ Austin Regional Office and the Compliance Monitoring Team within five working days of any effluent violations which deviate from the permitted effluent limitations by more than 40%. Specifically, the Respondent failed to submit noncompliance notifications for nitrate during the months of January 2012, March 2012, April 2012, October 2012, January 2013, and February 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 6

182 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$7,500

Six single events are recommended, one for each report.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Reg. Ent. Reference No. RN100815232
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime 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	\$250	17-Apr-2013	31-Mar-2014	0.95	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$60	5-Feb-2012	31-Mar-2014	2.15	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost (\$10 per report) to submit the noncompliance reports for the effluent exceedances of more than 40%, and to conduct employee training and to update the Facility's operational guidance and to ensure the timely submittal of all reporting requirements. Dates required are the date the first noncompliance report was due and the investigation date. Final dates are the projected date of compliance.

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 \$310

TOTAL \$18

Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 5

Rule Cite(s) TCEQ Permit No. WQ0014077001 Special Provision No. 17.e.5. and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to collect background groundwater samples from outside the influence of the effluent drip irrigation on a quarterly basis.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				3.0%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$143

Violation Final Penalty Total \$675

This violation Final Assessed Penalty (adjusted for limits) \$675

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Req. Ent. Reference No. RN100815232
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$1,000	20-May-2011	31-Mar-2014	2.87	\$143	n/a	\$143

Notes for DELAYED costs

Estimated cost to begin collecting background groundwater samples from outside the influence of the effluent drip irrigation zones on a quarterly basis. Date required is the date the background sample was due. Final date is the projected date of compliance.

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

\$1,000

TOTAL

\$143

Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 6

Rule Cite(s) TCEQ Permit No. WQ0014077001 Special Provision 17.e.4(C) and 30 Tex. Admin. Code § 305.125(1)

Violation Description

Failed to install and properly locate three lysimeters as required by the permit in order to demonstrate groundwater protection. Specifically, the lysimeters were not installed adjacent to the drip irrigation zone closest to Barton Creek. Also, only two lysimeters had been installed.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

79 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$56

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Reg. Ent. Reference No. RN100815232
Media Water Quality
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime 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)	\$1,000	17-Apr-2013	31-May-2014	1.12	\$56	n/a	\$56

Notes for DELAYED costs

Estimated cost to locate three lysimeters to demonstrate groundwater protection. Date required is the date the lysimeters should have been located. Final date is the project date of compliance.

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

\$1,000

TOTAL

\$56

Screening Date 5-Jul-2013

Docket No. 2013-1357-MWD-E

PCW

Respondent Brandywine Acquisition Partners LP

Policy Revision 3 (September 2011)

Case ID No. 47251

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100815232

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 7

Rule Cite(s) TCEQ Permit No. WQ0014077001 Special Provision Nos. 17.c. through 17.e. and 30 Tex. Admin. Code § 305.125(1)

Violation Description Failed to submit the Soil Moisture Monitoring Plan, the Irrigation Management Plan, and the Shallow Groundwater Monitoring Plan to the Ground Water Protection team.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3 Number of violation days 3

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$3,750

Three single events are recommended, one for each plan.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$140

Violation Final Penalty Total \$3,375

This violation Final Assessed Penalty (adjusted for limits) \$3,375

Economic Benefit Worksheet

Respondent Brandywine Acquisition Partners LP
Case ID No. 47251
Reg. Ent. Reference No. RN100815232
Media Water Quality
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,500	20-May-2011	31-Mar-2013	1.87	\$140	n/a	\$140

Notes for DELAYED costs

Estimated cost (\$500 for each plan) to submit the plans. Date required is the date the plans were due.
Final date is the projected date of compliance.

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

\$1,500

TOTAL

\$140

Brandywine Acquisition Partners LP
Docket No. 2013-1357-MWD-E, RN 100815232
TCEQ Permit No. WQ 0014077001
Effluent Violation Table

	Nitrate Daily Average Concentration	Turbidity Single Grab
<i>Month/Year</i>	10 mg/L	3 NTU
January 2012	14.75	c
February 2012	12.25	c
March 2012	15.5	c
April 2012	15.5	4
September 2012	10.3	c
October 2012	17.75	c
January 2013	17	c
February 2013	18.75	c

mg/L = milligrams per liter
NTU = nephelometric turbidity unit



Compliance History Report

PUBLISHED Compliance History Report for CN603105149, RN100815232, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN603105149, Brandywine Acquisition Partners LP **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN100815232, PARK AT BARTON CREEK WWTF **Classification:** HIGH **Rating:** 0.00

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

CH Group: 14 - Other

Location: APPROX 1000 FT SOUTH OF INTERSECTION OF LOOP 360 AND MOPAC EXPRESSWAY, TRAVIS COUNTY TEXAS

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):
WASTEWATER PERMIT WQ0014077001

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: July 18, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 18, 2008 to July 18, 2013

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

Name: Cheryl Thompson **Phone** (817) 588-5886

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.):
N/A

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.
N/A

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:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRANDYWINE ACQUISITION
PARTNERS LP
RN100815232

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2013-1357-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 Brandywine Acquisition Partners LP ("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 approximately 1,000 feet south of the intersection of Loop 360 and Mopac Expressway in Travis County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
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 June 26, 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 Eighteen Thousand One Hundred Fifty Dollars (\$18,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Five Hundred Twenty Dollars (\$14,520) of the administrative penalty and Three Thousand Six Hundred Thirty Dollars (\$3,630) 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.
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 on September 30, 2013, the Respondent submitted the annual sludge reports for 2011 and 2012 and began maintaining complete monthly sludge records.
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:

1. Failed to submit the annual sludge report the TCEQ Austin Regional Office and the Compliance Monitoring Team by September 1st of each year, in violation of TCEQ Permit No. WQ0014077001 Sludge Provisions and 30 TEX. ADMIN. CODE § 305.125(1) and (17), as documented during an investigation conducted on April 17, 2013. Specifically, the reports for 2011 and 2012 were not submitted to the TCEQ Austin Regional Office.
2. Failed to maintain monthly records demonstrating sludge was received by an authorized facility, in violation of 30 TEX. ADMIN. CODE § 305.125(11)(B) and TCEQ Permit No. WQ0014077001 Special Provisions No. 18, as documented during an investigation conducted on April 17, 2013.

3. Failed to comply with permitted effluent limits, in violation of TCEQ Permit No. WQ0014077001 Effluent Limitations and Monitoring Requirements, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)(1), as documented during an investigation conducted on April 17, 2013, and shown in the table below:

	Nitrate Daily Average Concentration	Turbidity Single Grab
<i>Month/Year</i>	10 mg/L	3 NTU
January 2012	14.75	c
February 2012	12.25	c
March 2012	15.5	c
April 2012	15.5	4
September 2012	10.3	c
October 2012	17.75	c
January 2013	17	c
February 2013	18.75	c

mg/l = milligrams per liter

NTU =nephelometric turbidity unit

4. Failed to submit noncompliance notifications to the TCEQ Austin Regional Office and the Compliance Monitoring Team within five working days of any effluent violations which deviate from the permitted effluent limitations by more than 40%, in violation of TCEQ Permit No. WQ0014077001 Monitoring and Reporting Requirements Nos. 7.a. and 7.c. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on April 17, 2013. Specifically, the Respondent failed to submit noncompliance notifications for nitrate during the months of January 2012, March 2012, April 2012, October 2012, January 2013, and February 2013.
5. Failed to collect background groundwater samples from outside the influence of the effluent drip irrigation on a quarterly basis, in violation of TCEQ Permit No. WQ0014077001 Special Provision No. 17.e.5. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on April 17, 2013.
6. Failed to install and properly locate three lysimeters as required by the permit in order to demonstrate groundwater protection, in violation of TCEQ Permit No. WQ0014077001 Special Provision 17.e.4(C) and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on April 17, 2013. Specifically, the lysimeters were not installed adjacent to the drip irrigation zone closest to Barton Creek. Also, only two lysimeters had been installed.
7. Failed to submit the Soil Moisture Monitoring Plan ("SMMP"), the Irrigation Management Plan ("IMP"), and the Shallow Groundwater Monitoring Plan ("SGMP") to the Ground Water Protection team, in violation of TCEQ Permit No. WQ0014077001

Special Provision Nos. 17.c. through 17.e. and 30 TEX. ADMIN. CODE § 305.125(1), as documented during an investigation conducted on April 17, 2013.

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: Brandywine Acquisition Partners LP, Docket No. 2013-1357-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Update the Facility's operational guidance and conduct employee training to ensure that all reporting requirements are properly accomplished, including the timely submittal of written reports for effluent violations which deviate by more than 40% from the permitted limit, and that all permitted parameters are collected and analyzed at the minimum required frequencies, in accordance with TCEQ Permit No. WQ0014077001;
 - ii. Install and properly locate three lysimeters and collect background groundwater samples from outside the influence of the effluent drip irrigation, in accordance with TCEQ Permit No. WQ0014077001; and
 - iii. Submit the SMMP, the IMP and the SGMP, in accordance with TCEQ Permit No. WQ0014077001 to:

Ground Water Monitoring Team (MC 150)
Water Availability Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Order Provisions No. 2.a.i through 2.a.iii, as described below in Ordering Provision No. 2.d.
- c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TCEQ Permit No. WQ0014077001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.
- d. The certifications required by Ordering Provisions No. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and 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:

Water Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

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

Paul McWhirter
For the Executive Director

9/2/16
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.

Brad A. Molotsky
Signature

11-9-13
Date

Brad A. Molotsky
Name (Printed or typed)
Authorized Representative of
Brandywine Acquisition Partners LP

SVP + General Counsel
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.