

Executive Summary – Enforcement Matter – Case No. 59340

City of Bertram

RN101386548

Docket No. 2020-0676-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Bertram WWTF, 2110 State Highway 29 West, which is located west of Bertram on the south side of Highway 29, approximately 1.7 miles west of the intersection of State Highway 29 and Farm-to-Market Road 1174 North, Burnet 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: September 23, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,125

Amount Deferred for Expedited Settlement: \$2,625

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$10,500

Name of SEP: Engineering Plans for WWTP Improvements (Compliance)

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 19, 2020

Date(s) of NOE(s): May 4, 2020

Executive Summary – Enforcement Matter – Case No. 59340
City of Bertram
RN101386548
Docket No. 2020-0676-MWD-E

Violation Information

1. Failed to provide a backflow prevention device or a double-check backflow preventer at a water connection from a public water supply system to a wastewater treatment facility. Specifically, a Reduced Pressure Backflow Assembly or double-check backflow preventer was not installed on the potable water line going into the Facility [30 TEX. ADMIN. CODE §§ 317.7(i) and 317.4(a)(8)].
2. Failed to provide atmospheric vacuum breakers at all potable water washdown hoses. Specifically, a water hose was connected to a potable water spigot located at the Facility's concrete influent monitoring station, which was running to a pressure washer machine, and did not have an atmospheric vacuum breaker [30 TEX. ADMIN. CODE §§ 317.7(i) and 317.4(a)(8)].
3. Failed to comply with permitted effluent limitations. Specifically, a grab sample collected during the March 19, 2020 investigation revealed the Respondent exceeded the permitted effluent limitation for biochemical oxygen demand 5-day ("BOD5") of 100 milligrams per liter ("mg/L") with a result of 107 mg/L. A record review of the effluent data indicated two grab samples exceeded the permitted effluent limitation for BOD5 of 100 mg/L with a result of 114 mg/L on February 11, 2020 and with a result of 120 mg/L on February 18, 2020 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TCEQ Permit No. WQ0011669001, Effluent Limitations and Monitoring Requirements A].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 4, 2020, the Respondent installed a Reduced Pressure Backflow Assembly on the potable water line going into the Facility and installed atmosphere vacuum breakers at all potable water wash down hoses.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).
2. The Order will also require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TCEQ Permit No. WQ0011669001, including specific corrective actions that were implemented at the Facility to return to compliance and copies of the most current effluent sampling results, demonstrating at least three months of compliance with all permitted effluent limitations.

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City of Bertram
RN101386548
Docket No. 2020-0676-MWD-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Ellen Ojeda, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-2581; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Betty Sanders, SEP Coordinator, Litigation Division, MC 175, (512) 239-3992

Respondent: The Honorable Michael Dickinson, Mayor, City of Bertram, P.O. Box 1604, Bertram, Texas 78605-1604

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	4-May-2020			
	PCW	28-Sep-2020	Screening	12-May-2020	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Bertram
Reg. Ent. Ref. No.	RN101386548
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	59340	No. of Violations	3
Docket No.	2020-0676-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Ellen Ojeda
		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	\$16,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Adjustment	Subtotals 2, 3, & 7	-\$1,625
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$1,500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,238	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$15,600	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$13,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,125
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,625
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$10,500
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Screening Date 12-May-2020

Docket No. 2020-0676-MWD-E

PCW

Respondent City of Bertram

Policy Revision 4 (April 2014)

Case ID No. 59340

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101386548

Media Water Quality

Enf. Coordinator Ellen Ojeda

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	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 judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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 12-May-2020 **Docket No.** 2020-0676-MWD-E **PCW**
Respondent City of Bertram *Policy Revision 4 (April 2014)*
Case ID No. 59340 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101386548
Media Water Quality
Enf. Coordinator Ellen Ojeda

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 317.7(i) and 317.4(a)(8)
Violation Description Failed to provide a backflow prevention device or a double-check backflow preventer at a water connection from a public water supply system to a wastewater treatment facility. Specifically, a Reduced Pressure Backflow Assembly ("RPBA") or double-check backflow preventer was not installed on the potable water line going into the Facility.
Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250
 \$3,750

Violation Events

Number of Violation Events 2 46 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two monthly events are recommended from the date of the investigation (March 19, 2020) to the date of compliance (May 4, 2020).

Good Faith Efforts to Comply 10.0% Reduction \$750

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

Notes The Respondent achieved compliance on May 4, 2020.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$4 **Violation Final Penalty Total** \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent City of Bertram
Case ID No. 59340
Reg. Ent. Reference No. RN101386548
Media Violation No. Water Quality
 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$500	19-Mar-2020	4-May-2020	0.13	\$0	\$4	\$4
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

Estimated equipment cost to install a RPBA on the potable water line going to the Facility. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$4

Screening Date 12-May-2020
Respondent City of Bertram
Case ID No. 59340
Reg. Ent. Reference No. RN101386548
Media Water Quality
Enf. Coordinator Ellen Ojeda

Docket No. 2020-0676-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

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

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>
N/A	<input type="text"/>	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Bertram
Case ID No. 59340
Reg. Ent. Reference No. RN101386548
Media Violation No. Water Quality
 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$100	19-Mar-2020	4-May-2020	0.13	\$0	\$1	\$1
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

Estimated equipment cost to install atmosphere vacuum breakers at all potable water wash down hoses. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

Screening Date 12-May-2020
Respondent City of Bertram
Case ID No. 59340
Reg. Ent. Reference No. RN101386548
Media Water Quality
Enf. Coordinator Ellen Ojeda

Docket No. 2020-0676-MWD-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s)
 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and TCEQ Permit No. WQ0011669001, Effluent Limitations and Monitoring Requirements A

Violation Description
 Failed to comply with permitted effluent limitations. Specifically, a grab sample collected during the March 19, 2020 investigation revealed the Respondent exceeded the permitted effluent limitation for Biochemical Oxygen Demand 5-day ("BOD5") of 100 milligrams per liter ("mg/L") with a result of 107 mg/L. A record review of the effluent data indicated two grab samples exceeded the permitted effluent limitation for BOD5 of 100 mg/L with a result of 114 mg/L on February 11, 2020 and with a result of 120 mg/L on February 18, 2020.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="5.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Matrix Notes
 Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<input type="text"/>

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Bertram
Case ID No. 59340
Reg. Ent. Reference No. RN101386548
Media Violation No. Water Quality
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$15,000	11-Feb-2020	3-Oct-2021	1.64	\$1,233	n/a	\$1,233

Notes for DELAYED costs
 Estimated other cost to determine the cause of noncompliance and to make any necessary adjustments or repairs to return to compliance with permitted effluent limitations. Date Required is the initial date of noncompliance and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$15,000

TOTAL \$1,233

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN600734982, RN101386548, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600734982, City of Bertram **Classification:** HIGH **Rating:** 0.00
Regulated Entity: RN101386548, City of Bertram **Classification:** HIGH **Rating:** 0.00
Complexity Points: 6 **Repeat Violator:** NO
CH Group: 08 - Sewage Treatment Facilities
Location: 2110 State Highway 29 West, which is located west of the City of Bertram on the south side of Highway 29, approximately 1.7 miles west of the intersection of State Highway 29 and Farm-to-Market Road 1174 North, in Burnet County, Texas 78605
TCEQ Region: REGION 11 - AUSTIN
ID Number(s): WASTEWATER PERMIT WQ0011669001

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: September 17, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 17, 2015 to September 17, 2020

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

Name: Christopher Moreno

Phone: (254) 761-3038

Site and Owner/Operator History:

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

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

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:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BERTRAM
RN101386548**

**§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2020-0676-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 Bertram (the "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 2110 State Highway 29 West, which is located west of the City of Bertram on the south side of Highway 29, approximately 1.7 miles west of the intersection of State Highway 29 and Farm-to-Market Road 1174 North, in Burnet County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$13,125 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The amount of \$2,625 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order, and shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$10,500 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment

A ", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by May 4, 2020, the Respondent installed a Reduced Pressure Backflow Assembly ("RPBA") on the potable water line going into the Facility and installed atmosphere vacuum breakers at all potable water wash down hoses.

II. ALLEGATIONS

During an investigation conducted on March 19, 2020, an investigator documented that the Respondent:

1. Failed to provide a backflow prevention device or a double-check backflow preventer at a water connection from a public water supply system to a wastewater treatment facility, in violation of 30 TEX. ADMIN. CODE §§ 317.7(i) and 317.4(a)(8). Specifically, a RPBA or double-check backflow preventer was not installed on the potable water line going into the Facility.
2. Failed to provide atmospheric vacuum breakers at all potable water washdown hoses, in violation of 30 TEX. ADMIN. CODE §§ 317.7(i) and 317.4(a)(8). Specifically, a water hose was connected to a potable water spigot located at the Facility's concrete influent monitoring station, which was running to a pressure washer machine, and did not have an atmospheric vacuum breaker.
3. Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and TCEQ Permit No. WQ0011669001, Effluent Limitations and Monitoring Requirements A. Specifically, a grab sample

collected during the March 19, 2020 investigation revealed the Respondent exceeded the permitted effluent limitation for Biochemical Oxygen Demand 5-day ("BOD₅") of 100 milligrams per liter ("mg/L") with a result of 107 mg/L. A record review of the effluent data indicated two grab samples exceeded the permitted effluent limitation for BOD₅ of 100 mg/L with a result of 114 mg/L on February 11, 2020 and with a result of 120 mg/L on February 18, 2020.

III. DENIALS

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

IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Bertram, Docket No. 2020-0676-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 an SEP as set forth in Section I, Paragraph No. 4. The amount of \$10,500 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment
3. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TCEQ Permit No. WQ0011669001, including specific corrective actions that were implemented at the Facility to return to compliance and copies of the most current effluent sampling results, demonstrating at least three months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals

immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Water Section
Enforcement Division, MC 219
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

4. All relief not expressly granted in this Order is denied.
5. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
8. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

10/12/2022

Date

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


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

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


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



Signature



Date



Name (Printed or typed)
Authorized Representative of
City of Bertram



Title

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

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

Attachment A

Docket Number: 2020-0676-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Bertram
Penalty Amount:	Ten Thousand Five Hundred Dollars (\$10,500)
SEP Offset Amount:	Ten Thousand Five Hundred Dollars (\$10,500)
Type of SEP:	Compliance
Project Name:	<i>Engineering Plans for WWTP Improvements</i>
Location of SEP:	Burnet 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”).

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order.

I. Project Description

A. Project

Respondent hired a contractor to prepare engineering plans. The plans were used to identify costs, permits, and project scope for the replacement of the wastewater treatment plant for the City. The new wastewater treatment plant is proposed to replace the existing facultative pond in order to produce a higher quality effluent.¹ Specifically, the SEP Offset Amount was used for engineering plans (the “Project”). Respondent hired qualified contractors to perform the Project. The SEP was performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent used the SEP Offset Amount only for the direct cost of implementing the Project, as listed in Subsection C. Expenses, below. No portion of the SEP Offset Amount was 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 had no prior commitment to perform this Project and that the SEP was performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from

¹ Respondent has submitted a major permit amendment to TCEQ and will begin construction of the new wastewater treatment plant upon obtaining authorization. TCEQ determined the application was administratively complete on January 25, 2022.

mild gastroenteritis to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. Additional risks include occurrences of low dissolved oxygen, fish kills, algal bloom, and bacterial contamination in waterways.

C. Expenses

Respondent spent at least the SEP Offset Amount to complete the project described in Section 1, above, and complied with all other provisions of this SEP. Respondent understood that it may have cost more than the SEP Offset Amount to complete the Project.

Expenses

Item	Quantity	Units	Total
Engineering Plans	1	Lump Sum	\$27,483
Total			\$27,483

2. Records

As of February 25, 2021, Respondent provided TCEQ the following documentation as proof of completion of the proposed SEP:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices or receipts corresponding to the itemized list in paragraph 2.1., above;
3. Copies of cleared checks or payment records corresponding to the itemized list in paragraph 2.1., above;
4. A certified statement of SEP completion and document authentication; and
5. Copies of all engineering plans related to the Project.

3. 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.

4. 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:

City of Bertram
Docket No. 2020-0676-MWD-E
Attachment A

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

5. 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 TCEQ**. Such statements include advertising, public relations, and press releases.

6. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

7. 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 TCEQ or any other agency of the state or federal government.