

Executive Summary – Enforcement Matter – Case No. 63896
Johnny Baulch Sandpit, L.L.C.
RN104316781
Docket No. 2023-0510-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Baulch Sand Pit, 5305 Highway 6, Hitchcock, Galveston County

Type of Operation:

Aggregate production operation (“APO”)

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 12, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$46,000

Amount Deferred for Expedited Settlement: \$9,200

Total Paid to General Revenue: \$18,400

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project (“SEP”) Conditional Offset: \$10,000

Name of SEP: Armand Bayou Nature Center, Inc. (Third-Party Pre-Approved)

Supplemental Environmental Project (“SEP”) Conditional Offset: \$8,400

Name of SEP: Bayou Land Conservancy (Third-Party Pre-Approved)

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: \$5,103

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 7, 2023

Date(s) of NOE(s): April 5, 2023

Executive Summary – Enforcement Matter – Case No. 63896
Johnny Baulch Sandpit, L.L.C.
RN104316781
Docket No. 2023-0510-WQ-E

Violation Information

1. Failed to renew the APO registration annually as regulated activities continued. Specifically, APO Registration No. AP0003236 expired on May 2, 2021, and Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].
2. Failed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System (“TPDES”) Multi-Sector General Permit (“MSGP”) No. TXR05BF19 expired on November 12, 2021, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 1, 2023, the Respondent implemented the following corrective measures:

- a. Obtained APO Registration No. AP0001915; and
- b. Developed and implemented a stormwater pollution prevention plan, submitted a Notice of Intent, and obtained authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR05GB43.

Technical Requirements:

The Order will require the Respondent to implement and complete two SEPs (see SEP Attachments A and B).

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Monica Larina, Enforcement Division, Enforcement Team 1, MC R-14, (361) 881-6965; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

SEP Third-Party Administrator: Armand Bayou Nature Center, Inc., P.O. Box 58828, Houston, Texas 77258

SEP Third-Party Administrator: Bayou Land Conservancy, 8801 Gosling Road, Spring, Texas 77381

Respondent: Johnny Baulch, Director, Johnny Baulch Sandpit, L.L.C., P. O. Box 1143, Texas City, Texas 77592-1143

Shirlyn Baulch, Business Manager, Johnny Baulch Sandpit, L.L.C., P. O. Box 1143, Texas City, Texas 77592-1143

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	10-Apr-2023			
	PCW	9-May-2023	Screening	19-Apr-2023	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Johnny Baulch Sandpit, L.L.C. PCW No. 1 of 2				
Reg. Ent. Ref. No.	RN104316781				
Facility/Site Region	12-Houston		Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	63896			No. of Violations	1	
Docket No.	2023-0510-WQ-E			Order Type	1660	
Media Program(s)	Aggregate Production Operation			Government/Non-Profit	No	
Multi-Media	Water Quality			Enf. Coordinator	Monica Larina	
				EC's Team	Enforcement Team 1	
Admin. Penalty \$	Limit Minimum	\$5,000	Maximum	\$20,000	Violation Maximum	\$40,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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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	-\$400
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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	-\$400
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,822	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,410	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	55.7%	Adjustment	\$1,783
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated to the violation.		
	Final Penalty Amount	\$4,983	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
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Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.	
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DEFERRAL	20.0%	Reduction	Adjustment	-\$2,000
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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	\$8,000
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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		19-Apr-2023		Docket No.		2023-0510-WQ-E		PCW		
Respondent		Johnny Baulch Sandpit, L.L.C. PCW No. 1 of 2								
Case ID No.		63896								
Reg. Ent. Reference No.		RN104316781								
Media		Aggregate Production Operation								
Enf. Coordinator		Monica Larina								
Violation Number		1								
Rule Cite(s)		30 Tex. Admin. Code § 342.25(d)								
Violation Description		Failed to renew the aggregate production operation ("APO") registration annually as regulated activities continued. Specifically, APO Registration No. AP0003236 expired on May 2, 2021, and Respondent continued to operate.								
		Base Penalty						\$20,000		
>> Environmental, Property and Human Health Matrix										
OR	Release		Major		Moderate		Minor			
	Actual								Percent	
	Potential								0.0%	
>> Programmatic Matrix										
		Falsification		Major		Moderate		Minor		
				x						Percent
										10.0%
Matrix Notes		100% of the rule requirement was not met.								
		Adjustment						\$18,000		
		\$2,000								
Violation Events										
		Number of Violation Events		2		712		Number of violation days		
		daily								
		weekly								
		monthly								
		quarterly								
		semiannual								
		annual								
		single event		x						
		Violation Base Penalty								
		\$4,000								
		Two single events are recommended, one for each annual renewal missed.								
Good Faith Efforts to Comply		10.0%				Reduction		\$400		
		Before NOE/NOV		NOE/NOV to EDPRP/Settlement Offer						
		Extraordinary								
		Ordinary				x				
		N/A								
		Notes		The Respondent returned to compliance on May 1, 2023.						
		Violation Subtotal						\$3,600		
Economic Benefit (EB) for this violation										
Statutory Limit Test										
		Estimated EB Amount		\$1,822		Violation Final Penalty Total		\$4,983		
		This violation Final Assessed Penalty (adjusted for limits)						\$10,000		

Economic Benefit Worksheet

Respondent Johnny Baulch Sandpit, L.L.C. PCW No. 1 of 2
Case ID No. 63896
Reg. Ent. Reference No. RN104316781
Media Violation No. Aggregate Production Operation
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				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	\$790	2-May-2022	1-May-2023	1.00	\$39	n/a	\$39
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Site as an APO. Date required is the most recent registration renewal due 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	\$1,620	2-May-2021	19-Apr-2023	1.96	\$163	\$1,620	\$1,783
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to renew the APO registration (\$790 per annual registration fee x two missed registrations) and associated interest. Date required is the date the last registration renewal was due, and the final date is the screening date.

Approx. Cost of Compliance \$2,410

TOTAL \$1,822



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	10-Apr-2023	
	PCW	9-May-2023	
	Screening	14-Apr-2023	
	EPA Due		

RESPONDENT/FACILITY INFORMATION	
Respondent	Johnny Baulch Sandpit, L.L.C. PCW No. 2 of 2
Reg. Ent. Ref. No.	RN104316781
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	63896	No. of Violations	1
Docket No.	2023-0510-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Monica Larina
		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	\$45,000
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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	-\$4,500
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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	-\$4,500
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$16
Estimated Cost of Compliance	\$225

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$36,000
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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	
Final Penalty Amount	\$36,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$36,000
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DEFERRAL	20.0%	Reduction	Adjustment	-\$7,200
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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	\$28,800
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Screening Date

14-Apr-2023

Docket No.

2023-0510-WQ-E

PCW

Respondent

Johnny Baulch Sandpit, L.L.C. PCW No. 2 of 2

Case ID No.

63896

Reg. Ent. Reference No.

RN104316781

Media

Water Quality

Enf. Coordinator

Monica Larina

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	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 Date14-Apr-2023

Docket No.2023-0510-WQ-E

PCW

RespondentJohnny Baulch Sandpit, L.L.C. PCW No. 2 of 2

Policy Revision 5 (January 28, 2021)

Case ID No.63896

PCW Revision February 11, 2021

Reg. Ent. Reference No.RN104316781

MediaWater Quality

Enf. CoordinatorMonica Larina

Violation Number1

Rule Cite(s)30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation DescriptionFailed to maintain authorization to discharge stormwater associated with industrial activities. Specifically, authorization under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05BF19 expired on November 12, 2021, and the Respondent continued to operate.

Base Penalty\$25,000

>> Environmental, Property and Human Health Matrix

OR

Release

Major

Moderate

Minor

Actual

Potential

Percent0.0%

>> Programmatic Matrix

Falsification

Major

Moderate

Minor

x

Percent10.0%

Matrix Notes

100% of the rule requirements was not met.

Adjustment\$22,500

\$2,500

Violation Events

Number of Violation Events18

518

Number of violation days

daily

weekly

monthly

quarterly

semiannual

annual

single event

x

Violation Base Penalty\$45,000

Eighteen monthly events are recommended from the date the authorization expired (November 12, 2021) to the screening date (April 14, 2023).

Good Faith Efforts to Comply

10.0%

Reduction\$4,500

Before NOE/NOV

NOE/NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

x

N/A

NotesThe Respondent returned to compliance on May 1, 2023.

Violation Subtotal\$40,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount\$16

Violation Final Penalty Total\$36,000

This violation Final Assessed Penalty (adjusted for limits)\$36,000

Economic Benefit Worksheet

Respondent Johnny Baulch Sandpit, L.L.C. PCW No. 2 of 2
Case ID No. 63896
Reg. Ent. Reference No. RN104316781
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	Costs Saved	EB Amount
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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	\$225	12-Nov-2021	1-May-2023	1.47	\$16	n/a	\$16
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to develop and implement a stormwater pollution prevention plan, submit a Notice of Intent, and obtain authorization to discharge stormwater associated with industrial activities under TPDES MSGP No. TXR050000. Date required is the date TPDES MSGP No. TXR05BF19 expired, and the final date is the date of compliance.						

Avoided CostsANNUALIZE 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	\$225	TOTAL	\$16
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Compliance History Report

Compliance History Report for CN604075002, RN104316781, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

Customer, Respondent, or Owner/Operator: CN604075002, Johnny Baulch Sandpit, L.L.C. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN104316781, BAULCH SAND PIT **Classification:** HIGH **Rating:** 0.00

Complexity Points: 6 **Repeat Violator:** NO

CH Group: 04 - Mining

Location: 5305 Highway 6, Hitchcock, Galveston County, Texas 77563 2310

TCEQ Region: REGION 12 - HOUSTON

ID Number(s): **STORMWATER PERMIT** TXR05GB43
AGGREGATE PRODUCTION OPERATION REGISTRATION AP0001915

Compliance History Period: September 01, 2018 to August 31, 2023 **Rating Year:** 2023 **Rating Date:** 09/01/2023

Date Compliance History Report Prepared: October 27, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 27, 2018 to October 27, 2023

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

Name: Monica Larina **Phone:** (512) 239-0184

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.):

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:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JOHNNY BAULCH SANDPIT, L.L.C.
RN104316781

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2023-0510-WQ-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 Johnny Baulch Sandpit, L.L.C. (the "Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because it is an operator, as defined in TEX. WATER CODE § 28A.001(4), of an aggregate production operation ("APO") located at 5305 Highway 6 in Hitchcock, Galveston County, Texas (the "Site"). The Site is near or adjacent to the water in the state as defined in TEX. WATER CODE § 26.001(5). Aggregates are being or have been removed or extracted from the Site's earth. Therefore, the Site is an APO as defined in TEX. WATER CODE § 28A.001(1).
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 chs. 26 and 28A 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 \$46,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$18,400 of the penalty and \$9,200 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$18,400 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Projects ("SEPs") as defined in the attached SEP Agreements

("Attachments A and B", 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 Agreements, 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 1, 2023, the Respondent implemented the following corrective measures at the Site:
 - a. Obtained APO Registration No. AP0001915; and
 - b. Developed and implemented a stormwater pollution prevention plan, submitted a Notice of Intent, and obtained authorization to discharge stormwater associated with industrial activities under Texas Pollutant Discharge Elimination System ("TPDES") Multi-Sector General Permit ("MSGP") No. TXR05GB43.

II. ALLEGATIONS

During an investigation at the Site conducted on February 7, 2023, an investigator documented that the Respondent:

1. Failed to renew the APO registration annually as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d). Specifically, APO Registration No. AP0003236 expired on May 2, 2021, and Respondent continued to operate.
2. Failed to maintain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c). Specifically, authorization under TPDES, MSGP No. TXR05BF19 expired on November 12, 2021, and the Respondent continued to operate.

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: Johnny Baulch Sandpit, L.L.C., Docket No. 2023-0510-WQ-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 the SEPs as set forth in Section I, Paragraph No. 4. The amount of \$18,400 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEPs pursuant to the terms of the SEP Agreements, as defined in Attachments A and B. 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. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but

not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.


8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

5/28/2024

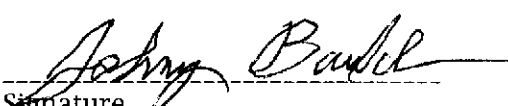
Date

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

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

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

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



Signature



Date

Johnny Baulch

Name (Printed or typed)
Authorized Representative of
Johnny Baulch Sandpit, L.L.C.



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: 2023-0510-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Johnny Baulch Sandpit, L.L.C.
Payable Penalty Amount:	\$36,800
SEP Offset Amount:	\$10,000
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Armand Bayou Nature Center, Inc.
Project Name:	<i>Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project</i>
Total Project Budget:	\$573,969
Location of SEP:	Harris County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Armand Bayou Nature Center, Inc.** for the *Coastal Prairie, Tidal Marsh, and Forested Wetland Restoration Project* (the “Project”). The Project is to manage the Armand Bayou Nature Center (“ABNC”), which comprises of 2500 acres located in southeast Harris County. ABNC contains three unique and vanishing ecosystems: coastal tallgrass prairie, forested wetland, and the tidal marsh stream of Armand Bayou. Prescribed burning is one stewardship tool used to maintain a tallgrass prairie ecosystem. If the prairie is not maintained, it can be destroyed by invasive species, which primarily include the Chinese tallow tree and other woody plants. In addition, prescribed mowing shall be conducted on a rotational basis as needed for maintenance of native species and removal of non-native species. The Third-Party Administrator shall propagate terrestrial and aquatic native plants and install them to restore the Coastal Prairie, Tidal Marsh, and Forested Wetlands. The Third-Party Administrator will pay for the labor and material costs associated with conducting prescribed burns, mowing, removing non-native trees, and for planting native trees and plants. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not able to be spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent’s signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

The ecological services provided by the restoration and management of the Coastal Prairie, Tidal Marsh, and Forested Wetlands ecosystems working in concert will help minimize pollution, reduce the amount of pollutants reaching the environment, and enhance water quality and wildlife habitat.

Coastal prairie grasslands are considered fire-dependent plant communities and require frequent exposure to fire effects for full ecological function. Prescribed fire in prairies helps control invasive species, minimize accumulated grass thatch, promote enrichment of soil nutrients and improve prairie plant vigor. One additional benefit of controlled prescribed burns is the reduction of fuels and the prevention of wildfires. This is particularly critical in the urban environment to protect human life and property and to minimize the release of large amounts of particulate matter resulting from uncontrolled wildfires. This treatment ensures that these coastal prairie grasslands will perform at their highest ecological function and provide the maximum potential ecological service to benefit water quality.

Mowing and targeted application of specialized herbicides will also help manage prairie species and remove non-native species. Propagation and installation of native plants will restore the natural balance to these ecosystems, reduce erosion, and increase habitat for wildlife. Plant installation in the Forested Wetland and Tidal Marsh will improve water quality by restoring depleted oxygen levels, providing habitat and nourishment for aquatic organisms, and reclaiming the area for native plants.

Proper management and restoration of these ecosystems will maximize the ecological services that they provide to Armand Bayou and Galveston Bay.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to Third-Party Administrator. The Respondent shall make the check payable to **Armand Bayou Nature Center, Inc. SEP** and shall mail the contribution with a copy of the Agreed Order to:

Armand Bayou Nature Center, Inc.
Attention: Chris Smith, Biologist
P.O. Box 58828
Houston, Texas 77258

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Johnny Baulch Sandpit, L.L.C.
Docket No. 2023-0510-WQ-E
Agreed Order - Attachment A

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the 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 and 3, above the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the 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, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

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

5. Publicity

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

6. Recognition

The Respondent may not seek recognition for this contribution 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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Attachment B
Docket Number: 2023-0510-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Johnny Baulch Sandpit, L.L.C.
Payable Penalty Amount:	\$36,800
SEP Offset Amount:	\$8,400
Type of SEP:	Contribution to a Third-Party Administrator SEP
Third-Party Administrator:	Bayou Land Conservancy
Project Name:	<i>Lake Houston Watershed-Western Watershed Protection Project</i>
Total Project Budget:	\$3,420,000
Location of SEP:	Harris and Montgomery Counties; San Jacinto River Basin; and Gulf Coast Aquifer

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Bayou Land Conservancy** for the *Lake Houston Watershed - Western Watershed Protection Project* (the “Project”). Third-Party Administrator has identified approximately 500 acres along the West Fork of the San Jacinto River, Spring Creek, Cypress Creek, and Lake Creek for property acquisition or acquisition of perpetual conservation easements in accordance with Subchapter A, Chapter 183, Texas Natural Resources Code. The goal of this Project is to protect the floodplain within the western tributaries of the Lake Houston Watershed. The Project is to conduct certain due diligence activities and to purchase land or conservation easements in perpetuity from private and public landowners. Third-Party Administrator shall also conduct restoration work as necessary on properties placed under a conservation easement or owned by the Third-Party Administrator. The Third-Party Administrator shall conduct habitat restoration and enhancement, including removing invasive species and planting native vegetation. Restoration activities will be conducted by a contractor and will take place on property protected by a conservation easement or owned by the Third-Party Administrator. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director (“ED”), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

B. Environmental Benefit

Rapid development in the Lake Houston Watershed has led to removal of the natural riparian buffers along the waterways, which jeopardizes the air and water quality. Spring Creek, Cypress Creek, Lake Creek, and the West Fork of the San Jacinto River are major water sources for Lake Houston, which is Houston's primary source of drinking water. When land is cleared and developed within these floodplains, the water becomes more turbid and often has increased E. coli bacteria and other negative water quality contaminants.

Lands permanently preserved with conservation easements maintain vegetated banks and wooded floodplains to allow river overflow. When floodwater passes through the floodplain, the vegetated substrates are not eroded away, and the banks are maintained. Preserving the natural vegetated banks will help maintain water quality in this area. Additionally, many of the properties Third-Party Administrator will secure with conservation easements will be open to the public for low-impact recreational uses, and wildlife will benefit from connected habitat and undisturbed access to critical water sources.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to Third-Party Administrator. The Respondent shall make the check payable to **Bayou Land Conservancy SEP** and shall mail the contribution with a copy of the Agreed Order to:

Bayou Land Conservancy
Attention: Conservation Director
8801 Gosling Road
Spring, Texas 77381

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall send a copy of the check and transmittal letter to the SEP Coordinator by mail or electronic mail, at:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087
Email: sepreports@tceq.texas.gov

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the 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, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

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

5. Publicity

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

6. Recognition

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

7. Other SEPs by TCEQ or Other Agencies

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