



RIVERBEND RESOLUTION NO. 20190724-03

**AUTHORIZING THE EXECUTIVE DIRECTOR/CEO TO SUBMIT A
SUPPLEMENTAL ENVIRONMENTAL PROJECT PROPOSAL TO THE TEXAS
COMMISSION FOR ENVIRONMENTAL QUALITY**


WHEREAS, Riverbend Water Resources District is a conservation and reclamation district created under and essential to accomplish the purposes of Section 59 Article XVI, Texas Constitution, existing pursuant to and having the powers set forth in Chapter 9601 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, Riverbend notified and discussed at the March 20, 2019 Regular Board Meeting that staff had received a letter on March 14, 2019 from the TCEQ notifying the District of possible enforcement action based on exceeding current effluent limits at the Ronald R. Collins Reclamation Facility; and


WHEREAS, Riverbend received a Proposed Agreed Order on Jun 25, 2019 outlining options for resolving the violation of effluent limits.

NOW THEREFORE BE IT RESOLVED that the Executive Director/CEO is authorized to sign the Agreed Order and submit a Supplemental Environmental Project (SEP) Proposal for consideration by TCEQ to resolve the Enforcement Case No. 57427.

PASSED and APPROVED this 24th day of July 2019



Fred Milton, President

ATTEST:


Van Alexander, Secretary

Attached: TCEQ Notice of Enforcement – March 14, 2019
TCEQ Proposed Agreed Order – June 25, 2019
TCEQ SEP Application



Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Toby Baker, *Executive Director*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 25, 2019

Ms. Elizabeth F. Hale, Executive Director
Riverbend Water Resources District
228 Texas Ave, Suite A
New Boston, Texas 75570

Re: Proposed Agreed Order
Riverbend Water Resources District; RN101274231; TPDES Permit No. WQ0004664000
Docket No. 2019-0390-IWD-E; Enforcement Case No. 57427
FOR SETTLEMENT PURPOSES ONLY

Dear Ms. Hale:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against the Riverbend Water Resources District for violations of the Texas Water Code and Commission Rules. These violations were discovered during a record review conducted on March 7, 2019, and documented in a letter dated March 14, 2019, from the TCEQ Compliance Monitoring Section.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of \$46,037, identifies the violations that we are addressing, and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for approval by the Commission. We believe that handling this matter expeditiously could save the Riverbend Water Resources District and the TCEQ a significant amount of time, as well as the expense associated with litigation.

Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing Riverbend Water Resources District, Docket No. 2019-0390-IWD-E) to:

Ms. Elizabeth F. Hale
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June 25, 2019

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

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. Please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing an SEP, you must agree to the penalty amount and submit an SEP proposal within 30 days of receipt of this proposed order.** If you are a local government you may have additional SEP options available to assist you with coming into compliance or remediating the harm caused by the violations. A local government is defined as a school district, county, municipality, junior college district, river authority, water district or other special district or other political subdivision created under the constitution or a statute of this state.

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <http://www.tceq.texas.gov/legal/sep/> or contact the Enforcement Coordinator listed below.

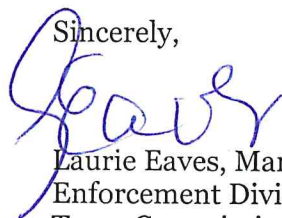
Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer will no longer be available. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

Ms. Elizabeth F. Hale
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For any questions or comments about this matter or to arrange a meeting, please contact Mr. Aaron Vincent of my staff at (512) 239-0855.

Sincerely,



Laurie Eaves, Manager
Enforcement Division
Texas Commission on Environmental Quality

LE/av

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheet,
Effluent Violation Table, Site Compliance History

cc: Mr. Eli Hunt, Systems Manager, Riverbend Water Resources District, 228 Texas Avenue,
Suite A, New Boston, Texas 75570

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RIVERBEND WATER
RESOURCES DISTRICT
RN101274231

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2019-0390-IWD-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Riverbend Water Resources District (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 presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that 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. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located at 450 Hopkins Road, approximately 2.4 miles south of the intersection of Bowie Parkway and United States Highway 82, and approximately 10 miles east of New Boston, Bowie 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. During a record review conducted on March 7, 2019, an investigator documented that the Respondent did not comply with permitted effluent limits, as shown in the effluent violation table below:

Outfall No. 001 (Phase I) Effluent Violation Table									
Monitoring Period	CBOD ₅ Daily Avg. Conc.	CBOD ₅ Daily Max. Conc.	Total Aluminum Daily Avg. Conc.	Total Aluminum Daily Max. Conc.	Total Aluminum Daily Max. Loading	Total Copper Daily Avg. Conc.	Total Copper Daily Max. Conc.	Lethal WET (48-hour Acute NOEC) Min. Percentage	Lethal WET (48-hour Acute NOEC) Monthly Avg. Min. Percentage
	Limit = 10 mg/L	Limit = 20 mg/L	Limit = 0.835 mg/L	Limit = 1.77 mg/L	Limit = 22.16 lbs/d	Limit = 0.019 mg/L	Limit = 0.040 mg/L	Limit = 100%	Limit = 100%
February 2018	c	25.4	c	c	c	c	c	N/A	N/A
March 2018	10.4	53.5	c	c	c	c	c	42	42
September 2018	c	c	0.965	2.48	32.37	c	c	c	c
October 2018	c	33.5	c	c	c	0.035	0.087	N/A	N/A
November 2018	c	c	c	c	c	0.032	0.065	N/A	N/A
December 2018	c	c	0.907	1.92	c	c	c	c	c

c = compliant
Min. = minimum
Conc. = concentration
CBOD₅ = Carbonaceous Biochemical Oxygen Demand (5-day)

Avg. = average
mg/L = milligrams per liter
WET = Whole Effluent Toxicity
N/A = not applicable

Max. = maximum
lbs/d = pounds per day
NOEC = No Observed Effect Concentration

II. CONCLUSIONS OF LAW

- As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
- As evidenced by Finding of Fact No. 2, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004664000, Effluent Limitations and Monitoring Requirements No. 1, Outfall No. 001, Phase I.
- Pursuant to TEX. WATER CODE § 7.051, the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
- An administrative penalty in the amount of \$46,037 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent paid the \$46,037 penalty.

III. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Riverbend Water Resources District, Docket No. 2019-0390-IWD-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, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0004664000, 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. 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:

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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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 Facility operations referenced in this Order.
5. 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.
6. 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 Order Compliance Team at the address listed above.
7. 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 in this Order.
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. 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.
10. 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.

11. 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


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

7/24/19

Date

KYLE DOOLAY

Name (Printed or typed)

EXECUTIVE DIRECTOR

Title

Authorized Representative of
Riverbend Water Resources District

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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

RESPONDENT COMPLIANCE SUPPLEMENTAL ENVIRONMENTAL PROJECT ("SEP") APPLICATION

SEP Program
Phone (512)239-0233
Fax (512)239-3434
sepreports@tceq.texas.gov
PO Box 13087
SEP Coordinator, MC 175
Austin, Texas 78711-3087

RESPONDENT INFORMATION

Date 7-9-2019	TCEQ Docket No. 2019-0390-IWD-E	
Name of Respondent (Legal Name of Applicant or Organization) Riverbend Water Resources District		
Name of Facility Ron R. Collins Water Reclamation Facility		
Street Address 450 Hopkins Rd.		
City Hooks	Zip Code 75561	County Bowie
Contact Person Kyle Dooley		
Telephone (903) 831-0091	Email kyledooley@rwr.org	
Enforcement Coordinator or TCEQ Attorney Aaron Vincent		Telephone (512) 239-0855

NATURE OF VIOLATION/PROBLEM

Nature of the Enforcement Action (provide a summary of the enforcement action being taken against the facility so that TCEQ can evaluate the appropriateness of the SEP in relation to the violation.)
Riverbend Water Resources District violated their Wastewater Treatment Plant Effluent Permit limits for the months of February-March 2018 and September-December 2018 for the permit parameters of cBOD, Aluminum, Copper, and WET Testing. TCEQ's enforcement action seeks an administrative penalty for the violations.

Penalty Amount \$ 46,037 **SEP Amount (expected cost of SEP) \$ 50,000**

DESCRIPTION OF THE PROPOSED SEP

SEP Name Riverbend Water Resources District SEP Project

Description of the proposed SEP and How the SEP will be implemented (Include photographs and maps, if needed; describe the need for the SEP and provide details on how the SEP will be implemented.)
During the period where we were not able to meet our permit limits we experienced a high volume of rainfall that not only caused our wastewater plant to essentially get washed out causing high cBODs but it also washed in heavy metals. To prevent from this happening again in the future, Riverbend Water Resources District would like to pursue a SSES (Sanitary Sewer Evaluation Survey) through an engineering consultant in which they will help identify inflow/infiltration, specific streams of wastewater that enter into the collection system that are equal to or in excess of our effluent permit limits and propose a solution on how to handle this wastewater before it enters our wastewater plant. After the SSES is performed, we would then take the findings and address the areas of concern according to the engineering consultant's recommendations.

Status of proposed SEP: Proposed In Progress Completed
If the proposed SEP is in progress or completed, please provide the following information.

Start Date: _____

Completion Date: _____

Media, if known air water waste

Specific location of SEP (physical address)
Ron R. Collins Water Reclamation Facility
450 Hopkins Rd.
Hooks, TX. 75561

Ownership (Please state who owns the property where the SEP will be conducted.)

Riverbend Water Resources District

Does the proposed SEP relate in any way to the violation? (Causal relationship between violation and the restoration.)

The propose SEP will help identify the source of the problem causing effluent violations. Once identified we can then fix the issue accordingly.

Will the SEP use contract labor? (Please specify.) Yes No

We will contract out to an engineering consultant firm.

Will the respondent be willing to complete all portions of the SEP, regardless of whether the SEP costs more than anticipated? Yes No

EXPECTED ENVIRONMENTAL BENEFIT

Explain in as much detail as possible the expected environmental benefit of this SEP and quantify the environmental benefit to the extent practical. Even if the benefits seem obvious (e.g. reducing pollution), you still must clearly state how the implementation of the SEP will result in measurable environmental benefits. Once a SSES has been performed, we can start to reduce infiltration and inflow (I/I) coming into the plant which will help reduce the energy and chemical costs to treat the wastewater, prevent the washing out of our wastewater treatment plant and it will reduce the amount of slugs,(build up of sludge), in old wastewater lines being pushed down the collection system by heavy rainfall. We also will identify possible areas where pre-treatment may need to be implemented to treat the wastewater for any effluent parameters before it goes the wastewater treatment plant.

Geographical Area to Benefit (Identify specific areas, cities, counties, and watersheds and /or nonattainment areas that would be affected by the SEP.)

PROPOSED BUDGET DETAILS (The state flat rates for equipment use is available from the SEP Program.)

Only actual cost will be given credit upon completion of the SEP. No credit will be given for volunteer labor, labor by respondent's employees, gratuities such as food, drinks, and t-shirts, or for administrative costs.

PROPOSED BUDGET

Enter the proposed budget below. If necessary, attach a separate budget to the application.

Item	Unit	Price per Unit	Quantity	Total
SSES	1	Lump Sum	1	\$50,000
Total Overall Budget				\$ 50,000

FINANCIAL GAIN

Do you anticipate any financial return on the proposed SEP? Yes No

If you checked yes above, please provide details on the anticipated financial return.

SEP IMPLEMENTATION

You may commence implementing the proposed before or after the Commission approves a final Agreed Order that includes the proposed SEP. However, if you implement or complete the proposed SEP prior to receiving Commission approval you will only receive credit for those expenditures that were made prior to Commission approval if they are subsequently within a final Agreed Order and approved by the Commission. *

*If you have implemented or are considering implementing the proposed SEP prior to Commission approval of a final Agreed Order, please contact the TCEQ SEP Program for information on what action or expenses may not be eligible to receive SEP credit.

REPORTING REQUIREMENTS

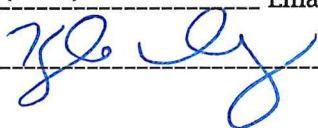
Respondent is required to provide documentation to TCEQ to verify completion of the SEP. Respondent is required to provide progress reports, documentation and a final report of completion within specified deadlines as required and detailed within the final Agreed Order. Required documents may include:

- Itemized list of expenditures
- Copies of invoices or receipts corresponding to the itemized list of expenditures
- Copies of cleared checks or payments records corresponding to the itemized list of expenditures
- Copies of proof of advertisement or publication (which must include a statement that the SEP was performed as a result of a TCEQ enforcement action)
- Dated photographs of SEP progress
- A certified/notarized statement of SEP completion
- Detailed map showing specific location of the SEP site(s)
- Copies of engineering plans
- A count of collected items (if applicable)
- A manifest showing proof of disposal and/or recycling of materials (if applicable)
- Equipment logs (if applicable)

I agree to provide all report and documentation on a timely basis as required by the final Agreed Order.

Name of person responsible for reporting to TCEQ Kyle Dooley

Telephone (903) 831-0091 Email kyledooley@rwr.org

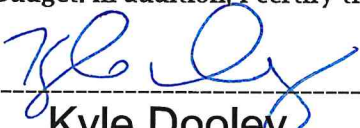
Signature  Date 7/24/19

ADDITIONAL REQUESTED INFORMATION

- 1. Date of initial Notice of Violation (NOV) or Notice of Enforcement (NOE) received for the alleged violation(s). **March 14, 2019**
- 2. Have you previously agreed to perform the SEP proposed in this application? Yes No
- 3. If you checked yes above, provide the following information.
 - a. Name of parties to the agreement _____
 - b. Date of agreement _____
 - c. Agreement details

COMPLIANCE SEP APPLICATION CERTIFICATION

I certify on behalf of the Respondent, that the SEP did not and/or will not receive duplicate funding by grants or donations from any source for the authorized SEP expenditures as detailed within the SEP Proposed Budget. In addition, I certify that all the information provided in tis SEP application is true and accurate.

Signature  _____ Date 7/24/19 _____

Printed Name **Kyle Dooley** _____ Title **Executive Director/CEO** _____