

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0355-PWS-E TCEQ ID: RN102681467 CASE NO.: 37270**  
**RESPONDENT NAME: RIVER BEND WATER SERVICES, INC.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** two miles south of the Intercoastal Waterway, Matgorda, Matgorda County

**TYPE OF OPERATION:** Public Water System

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired August 24, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  
**TCEQ Enforcement Coordinator:** Mr. Epifanio Villarreal, Water Enforcement Section, MC R-14, (361) 825-3425  
**TCEQ Regional Contact:** Mr. David Kennebeck, Corpus Christi Regional Office, MC R-14, (361) 825-3111  
**Respondent:** Ms. Jennifer Klaiber, President, River Bend Water Services, Inc., P.O. Box 735, Matagorda, Texas 77457-0735  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> February 18, 2009 through February 20, 2009</p> <p><b>Date of NOE Relating to this Case:</b> February 20, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed May 7, 2009. Settlement was achieved and an agreed order was signed on June 23, 2009. A revised agreed order was signed on December 21, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</li> <li>Failed to comply with the MCL of 0.080 mg/L for total trihalomethanes ("TTHM"), based on a running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH &amp; SAFETY CODE § 341.0315(c)].</li> </ol>	<p><b>Total Assessed:</b> \$646</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$646</p> <p>The Respondent paid the administrative penalty in full.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Three repeated enforcement actions (NOVs) over the prior five year period for the same violation.</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 365 days:             <ol style="list-style-type: none"> <li>Return to compliance with the running annual average MCL for HAA5; and</li> <li>Return to compliance with the running annual average MCL for TTHM.</li> </ol> </li> <li>Within 380 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	9-Mar-2009	<b>Screening</b>	10-Mar-2009	<b>EPA Due</b>	1-Jan-2009
	<b>PCW</b>	10-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	River Bend Water Services, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102681467
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37270	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-0355-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Epifanio Villarreal
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$500
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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.

<b>Compliance History</b>	29.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$145
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Notes: The penalty enhancement is due to five prior Notices of Violation ("NOVs") for violations that are the same as the violations in the current enforcement action and two prior dissimilar NOVs.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$613  
 Approx. Cost of Compliance: \$5,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$646
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$646
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$646
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$646
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**Screening Date** 10-Mar-2009      **Docket No.** 2009-0355-PWS-E  
**Respondent** River Bend Water Services, Inc.  
**Case ID No.** 37270  
**Reg. Ent. Reference No.** RN102681467  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 29%

#### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

The penalty enhancement is due to five prior Notices of Violation ("NOVs") for violations that are the same as the violations in the current enforcement action and two prior dissimilar NOVs.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 29%

**Screening Date** 10-Mar-2009 **Docket No.** 2009-0355-PWS-E **PCW**  
**Respondent** River Bend Water Services, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 37270 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102681467  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.113(f)(5) and Tex. Health & Safety Code § 341.0315(c),  
**Violation Description** Failed to comply with the maximum contaminant level ("MCL") of 0.060 milligrams per liter ("mg/L") for haloacetic acids ("HAA5"), based on a running annual average. Specifically, the running annual average concentration for HAA5 was 0.062 mg/L for the first quarter of 2008.

**Base Penalty** \$1,000

**>> Environmental, Property and Human Health Matrix**

OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual		x		
	Potential				
				<b>Percent</b> 25%	

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
					<b>Percent</b> 0%

**Matrix Notes** Exceeding the MCL for HAA5 exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health.

**Adjustment** \$750

\$250

**Violation Events**

Number of Violation Events 1 90 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

**Violation Base Penalty** \$250

One annual event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	<b>0.0%</b>	<b>Reduction</b>
	<small>Before NOV</small>	<small>NOV to EDP/PP/ Settlement Offer</small>
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

**Violation Subtotal** \$250

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

**Estimated EB Amount** \$613 **Violation Final Penalty Total** \$323

**This violation Final Assessed Penalty (adjusted for limits)** \$323

## Economic Benefit Worksheet

**Respondent** River Bend Water Services, Inc.  
**Case ID No.** 37270  
**Reg. Ent. Reference No.** RN102681467  
**Media** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	1-Jan-2008	1-Oct-2009	1.75	\$29	\$584	\$613
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

The delayed costs include the amount to implement an alternative method of disinfection, calculated from the first day of noncompliance to the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

**TOTAL** \$613

**Screening Date** 10-Mar-2009 **Docket No.** 2009-0355-PWS-E **PCW**  
**Respondent** River Bend Water Services, Inc. *Policy Revision 2 (September 2002)*  
**Case ID No.** 37270 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102681467  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Epifanio Villarreal

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)  
**Violation Description** Failed to comply with the MCL of 0.080 mg/L for total trihalomethanes ("TTHM"), based on a running annual average. Specifically, the running annual average concentrations for TTHM were 0.199 mg/L for the first quarter, 0.156 mg/L for the second quarter, 0.120 mg/L for the third quarter, and 0.127 mg/L for the fourth quarter of 2008.

**Base Penalty** \$1,000

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		x		25%
Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Exceeding the MCL for TTHM exposes customers of the water supply to significant amounts of contaminants that do not exceed levels that are protective of human health.

**Adjustment** \$750  
\$250

**Violation Events**

Number of Violation Events: 1      365 Number of violation days  
 mark only one with an x  
 daily:   
 weekly:   
 monthly:   
 quarterly:   
 semiannual:   
 annual:  x  
 single event:

**Violation Base Penalty** \$250

One annual event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

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

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

**Violation Subtotal** \$250

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

**Estimated EB Amount** \$0      **Violation Final Penalty Total** \$323

**This violation Final Assessed Penalty (adjusted for limits)** \$323

## Economic Benefit Worksheet

**Respondent** River Bend Water Services, Inc.  
**Case ID No.** 37270  
**Reg. Ent. Reference No.** RN102681467  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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

The delayed costs are included in violation no. 1 of the PCW.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

**TOTAL** \$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600754857 River Bend Water Services, Inc.	Classification:	Rating:
Regulated Entity:	RN102681467 RIVER BEND WATER SERVICES	Classification:	Site Rating:
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY REGISTRATION		1610030
Location:	2 MILES S OF THE ICW IN CITY OF MATAGORDA, MATAGORDA COUNTY, TEXAS		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	March 10, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 10, 2004 to March 10, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Epi Villarreal	Phone:	361-825-3425

### Site Compliance History Components

- |  |     |
|--|-----|
| 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 of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |    |            |          |  |
|----|------------|----------|--|
| 1  | 09/03/2004 | (293265) |  |
| 2  | 12/08/2004 | (343552) |  |
| 3  | 06/22/2005 | (395927) |  |
| 4  | 01/11/2006 | (450742) |  |
| 5  | 08/23/2006 | (485050) |  |
| 6  | 07/25/2008 | (735841) |  |
| 7  | 07/30/2008 | (736031) |  |
| 8  | 08/28/2008 | (736038) |  |
| 9  | 11/03/2008 | (736041) |  |
| 10 | 01/23/2009 | (736045) |  |
| 11 | 03/03/2009 | (736805) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |                 |                          |
|--------------|--|-----------------|--------------------------|
| <b>Date:</b> | <b>09/02/2004</b>  | <b>(293265)</b> |                          |
| Self Report? | NO   |                 | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(B)                                 |                 |                          |
| Description: | Failure to extend the well casing at least 18 inches above natural ground level. |                 |                          |
| <b>Date:</b> | <b>08/22/2006</b>  | <b>(485050)</b> |                          |
| Self Report? | NO   |                 | Classification: Moderate |
| Citation:    | 30 TAC Chapter 291, SubChapter F 291.93(3)                                       |                 |                          |

Description: Failure, by a retail public utility that possesses a CCN that has reached 85% of its capacity for pressure and storage capacities to submit to the ED a planning report that clearly explains how the retail public utility will provide service to the remaining areas within the boundaries of its certificated area.

**Date: 07/25/2008 (735841)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for haloacetic acids during the first quarter of 2008.

**Date: 07/30/2008 (736031)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.

**Date: 08/28/2008 (736038)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

**Date: 11/03/2008 (736041)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2008.

**Date: 01/23/2009 (736045)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2008.

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



<p><b>IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING RIVER BEND WATER SERVICES, INC.; RN102681467</b></p>	<p>§ § § § § §</p>	<p><b>BEFORE THE  TEXAS COMMISSION ON  ENVIRONMENTAL QUALITY</b></p>
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**AGREED ORDER  
DOCKET NO. 2009-0355-PWS -E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding River Bend Water Services, Inc. (“River Bend”) under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission. The Executive Director of the TCEQ, represented by the Litigation Division, and River Bend presented this agreement to the Commission.

River Bend understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, 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 Agreed Order, River Bend agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon River Bend.

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

**FINDINGS OF FACT**

1. River Bend owns and operates a public water system located two miles south of the Intercoastal Waterway (“ICW”) in the City of Matgorda, Matagorda County, Texas (the “Facility”).
2. The Facility provides water for human consumption, has 45 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).

3. During a record review conducted on February 18, 2009 through February 20, 2009, a TCEQ Central Office investigator documented that River Bend:
  - a. Failed to comply with the maximum contaminant level (“MCL”) of 0.060 milligrams per liter (“mg/L”) for haloacetic acids (“HAA5”), based on a running annual average. Specifically, the running annual average concentration for HAA5 was 0.062 mg/L for the first quarter of 2008; and
  - b. Failed to comply with the MCL of 0.080 mg/L for total trihalomethanes (“TTHM”), based on a running annual average. Specifically, the running annual average concentrations for TTHM were 0.199 mg/L for the first quarter, 0.156 mg/L for the second quarter, 0.120 mg/L for the third quarter, and 0.127 mg/L for the fourth quarter of 2008.
4. River Bend received notice of the violations on or about February 25, 2009.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1 and 2, River Bend is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3.a., River Bend failed to comply with the MCL of 0.060 mg/L for HAA5, based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(5) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3.b., River Bend failed to comply with the MCL of 0.080 mg/L for TTHM, based on a running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against River Bend for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of six hundred forty-six dollars (\$646.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049. River Bend paid six hundred forty-six dollars (\$646.00) of the administrative penalty.

## ORDERING PROVISIONS

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

1. River Bend is assessed an administrative penalty as set forth in Conclusions of Law, Paragraph 5, above. The payment of this administrative penalty and River Bend's compliance with all the terms and conditions set forth in this Agreed Order resolve only the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for other violations which are not raised here.
2. River Bend shall undertake the following technical requirements:
  - a. Within 365 days after the effective date of this Agreed Order, River Bend shall:
    - i. Return to compliance with the running annual average MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
    - ii. Return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
  - b. Within 380 days after the effective date of this Agreed Order, River Bend shall submit written certification as described below, which shall include detailed supporting documentation including photographs, receipts, and/or other records necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii., above. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification and supporting documents 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:

DBP Compliance Coordinator  
Texas Commission on Environmental Quality  
Water Supply Division / PDWS, MC 155  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon River Bend. River Bend is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by River Bend shall be made in writing to the Executive Director. Extensions are not effective until River Bend receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to River Bend if the Executive Director determines that River Bend has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against River Bend in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to River Bend, or three days after the date on which the Commission mails notice of this Agreed Order to River Bend, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Johnston Penhune

For the Executive Director

4/11/2010

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of River Bend Water Services, Inc., 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 in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on River Bend Water Services, Inc.'s compliance history;
- Greater scrutiny of any permit applications submitted by River Bend Water Services, Inc.;
- 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 against River Bend Water Services, Inc.;
- Automatic referral to the Attorney General's Office of any future enforcement actions against River Bend Water Services, Inc.; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

Jennifer Klaiber

Signature

12-21-2009

Date

Jennifer Klaiber

Name (Printed or typed)

River Bend Water Services, Inc.

President

Title