

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

RIVER BIRCH, LLC

AI # 32219

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-WE-18-0002  
\*  
\* Enforcement Tracking No.  
\* WE-CN-16-00460A  
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SETTLEMENT

The following Settlement is hereby agreed to between River Birch, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates a non-hazardous solid waste landfill located in Jefferson Parish, Louisiana (“the Facility”).

II

On May 26, 2017, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-16-00460A, which was based upon the following findings of fact:

“The Respondent owns and/or operates a non-hazardous solid waste landfill located on the east side of Kenner Road, 0.5 miles north of the US Hwy 90 intersection in Waggaman, Jefferson Parish, Louisiana. The Department issued LPDES permit LA0099473 to the Respondent on December 1, 2010, with an effective date of January 1, 2011, and an expiration date of December 31,

2015. A major modification of LPDES permit LA0099473 was issued on July 13, 2012, with an effective date of August 1, 2012. A permit renewal application was received by the Department on or about June 23, 2015, and LPDES permit LA0099473 has been administratively continued until the permit is reissued. Under the terms and conditions of LPDES permit LA0099473, the Respondent is permitted to discharge treated leachate, contact stormwater, non-contact stormwater, uncontaminated stormwater, treated sanitary wastewater, uncontaminated groundwater, non-hazardous industrial wastewaters from injection wells, and treated truck wash water into Sauls Canal, thence into Waggaman Canal, thence into Lake Cataouatche (Subsegment 020501), all waters of the state.”

On or about December 11, 2015, October 11, 2016, and May 24, 2017, inspection(s) and a file review were conducted by the Department. The inspections and file review revealed the following violation(s):

“The Respondent failed to comply with LPDES permit LA0099473. Specifically, between March 2012 and August 2016, the Respondent reported exceedances of permit effluent limitations for chlorides, ammonia nitrogen, BOD<sub>5</sub>, TSS, and fecal coliform [*see attachment Table I*]. (LA0099473 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

The Respondent failed to sample the effluent from Outfalls 001 as required by LPDES Permit LA0099473. Specifically, the Respondent failed to sample Outfall 001 for all quarterly parameters including priority pollutants during the second quarter of 2012. The Respondent sampled twice during the third quarter of 2012 in an attempt to resolve the failure to sample during the previous monitoring period. (LA0099473 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

The Respondent failed to comply with LPDES permit LA0099473. Specifically, the Respondent failed to continuously record flow from Outfalls 001 and 003 during months when a

discharge occurred from January 2012 to December 2016. (LA0099473 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

The Respondent failed to comply with LPDES permit LA0099473. Specifically, the Respondent failed to report the fecal coliform monthly average sample result for Outfall 001 in January 2015. (LA0099473 (Part I and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)

This **AMENDED CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** replaces **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. WE-CN-16-00460** issued on December 16, 2016, in its entirety.”

### III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of NINE THOUSAND AND NO/100 DOLLARS (\$9,000.00), of which One Thousand Six Hundred Thirty and 10/100 Dollars (\$1,630.10) represents the Department’s enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

### V

Respondent further agrees that the Department may consider the inspection report(s), permit

record(s), the Amended Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

## VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

## VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal

of the parish governing authority in Jefferson Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

#### X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

#### XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

#### XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

RIVER BIRCH, LLC

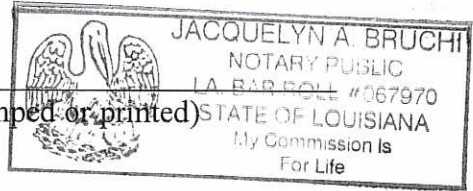
BY: [Signature]  
(Signature)

A. J. WARD JR  
(Printed)

TITLE: President

THUS DONE AND SIGNED in duplicate original before me this 26<sup>th</sup> day of June, 20 18, at Dutro, LA.

[Signature]  
NOTARY PUBLIC (ID # \_\_\_\_\_)



(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]  
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 7<sup>th</sup> day of Sept, 20 18, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
Lourdes Iturralde, Assistant Secretary

TABLE 1				
DATE	OUTFALL	PARAMETER	PERMIT LIMIT	SAMPLE RESULT
March 2012	004	Chlorides	850 mg/l (Daily Maximum)	900 mg/l
March 2013	003	Ammonia Nitrogen	4.9 mg/l (Monthly Average)	5.7 mg/l
April 2013	001	BOD <sub>5</sub>	30 mg/l (Monthly Average)	295 mg/l
		BOD <sub>5</sub>	45 mg/l (Daily Maximum)	295 mg/l
		TSS	27 mg/l (Monthly Average)	48 mg/l
		TSS	45 mg/l (Daily Maximum)	48 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	21.1 mg/l
		Ammonia Nitrogen	10 mg/l (Daily Maximum)	21.1 mg/l
	003	TSS	27 mg/l (Monthly Average)	37 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	5.61 mg/l
May 2013	001	TSS	27 mg/l (Monthly Average)	87 mg/l
		TSS	45 mg/l (Daily Maximum)	87 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	11.8 mg/l
		Ammonia Nitrogen	10 mg/l (Daily Maximum)	11.8 mg/l
	003	TSS	27 mg/l (Monthly Average)	52 mg/l
		TSS	45 mg/l (Daily Maximum)	52 mg/l
February 2014	001	BOD <sub>5</sub>	30 mg/l (Monthly Average)	41.8 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	8.3 mg/l
	003	Ammonia Nitrogen	4.9 mg/l (Monthly Average)	9.68 mg/l
March 2014	003	BOD <sub>5</sub>	30 mg/l (Monthly Average)	57.3 mg/l
		BOD <sub>5</sub>	45 mg/l (Daily Maximum)	57.3 mg/l
		TSS	27 mg/l (Monthly Average)	36 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	8.98 mg/l
September 2014	001	Chlorides	631 mg/l (Daily Maximum)	678 mg/l
		Chlorides	631 mg/l (Daily Maximum)	678 mg/l
	003	BOD <sub>5</sub>	30 mg/l (Monthly Average)	60.7 mg/l
		BOD <sub>5</sub>	45 mg/l (Daily Maximum)	60.7 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	19.9 mg/l
		Ammonia Nitrogen	10 mg/l (Daily Maximum)	19.9 mg/l
December 2014	002	TSS	45 mg/l (Daily Maximum)	96 mg/l
April 2015	003	BOD <sub>5</sub>	30 mg/l (Monthly Average)	30.8 mg/l
May 2015	001	BOD <sub>5</sub>	30 mg/l (Monthly Average)	62.2 mg/l
		BOD <sub>5</sub>	45 mg/l (Daily Maximum)	62.2 mg/l
		Fecal Coliform	400 col/100 ml (Daily Maximum)	>1,000 col/100 ml
	003	BOD <sub>5</sub>	30 mg/l (Monthly Average)	57.4 mg/l
		BOD <sub>5</sub>	45 mg/l (Daily Maximum)	57.4 mg/l
October 2015	001	Chlorides	631 mg/l (Daily Maximum)	846 mg/l
		Chlorides	631 mg/l (Daily Maximum)	846 mg/l
	003	TSS	27 mg/l (Monthly Average)	40 mg/l
November 2015	001	Fecal Coliform	200 col/100 ml (Monthly Average)	>1,000 col/100 ml
		Fecal Coliform	400 col/100 ml (Daily Maximum)	>1,000 col/100 ml
December 2015	001	TSS	27 mg/l (Monthly Average)	35 mg/l
		Fecal Coliform	200 col/100 ml (Monthly Average)	>1,000 col/100 ml
		Fecal Coliform	400 col/100 ml (Daily Maximum)	>1,000 col/100 ml
	003	TSS	27 mg/l (Monthly Average)	41 mg/l
		Ammonia Nitrogen	4.9 mg/l (Monthly Average)	13.6 mg/l
		Ammonia Nitrogen	10 mg/l (Daily Maximum)	13.6 mg/l
March 2016	001	Ammonia Nitrogen	4.9 mg/l (Monthly Average)	7.36 mg/l
May 2016	001	Ammonia Nitrogen	4.9 mg/l (Monthly Average)	6.35 mg/l
June 2016	001	BOD <sub>5</sub>	30 mg/l (Monthly Average)	36.1 mg/l
August 2016	003	Ammonia Nitrogen	4.9 mg/l (Monthly Average)	9.55 mg/l
	001	Ammonia Nitrogen	4.9 mg/l (Monthly Average)	6.64 mg/l